82-513

Office - Supreme Court, U.S.
FILED
SEP 23 1982
ALEXANDER L. STEVAS,
CLERK

NO. _____

IN THE SUPREME COURT

OF THE

UNITED STATES

OCTOBER TERM 1982

MINTA H. REICHEL, AS A CALIFORNIA SHASTA COUNTY OWNER RESIDENT AND AS A NON-LAWYER LITIGANT APPEARING IN CALIFORNIA SHASTA COUNTY SUPERIOR COURT IN PROPRIA PERSONNA

PETITIONER

VS

CALIFORNIA SHASTA COUNTY SUPERIOR COUKT JUDGES, ET AL

RESPONDENTS

ON WRIT OF CERTIORARI TO THE UNITED STATES

COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF FOR PETITIONER

MINTA H. REICHEL
P.O. BOX 2304
REDDING, CALIFORNIA 96099
PETITIONER APPEARING
IN PROPRIA PERSONNA

QUESTIONS PRESENTED

I.

DID THE RULE AS INITIATED AND ENFORCED:

"LAW LIBRARY OPEN TO THE PUBLIC 3PM TO 5PM

1. ONLY LAWYERS MAY CHECK OUT BOOKS.
2. CHECK OUT PERIOD IS ONE WEEK.
3. WHEN LIBRARY IS CLOSED, LAWYERS MAY OBTAIN KEY FROM JUDGES' SECRETARY'S OFFICE, RELOCK DOOR WHEN LEAVING, RETURN KEY TO SECRETARY WHO WILL THEN CHECK OUT BOOKS WITHDRAWN BY LAWYERS."

BY CALIFORNIA SHASTA COUNTY SUPERIOR COURT JUDGES WITH OTHER TRUSTEES IN A MEETING OUTSIDE THEIR COURTROOMS, ABRIDGE MY LIBERTIES, FREEDOMS, AND RIGHTS UNDER THE UNITED STATES CONSTITUTION, BUT MY ACTION WAS DISMISSED BY THE UNITED STATES COURT OF APPEALS AS NOT STATING A CAUSE OF ACTION UNDER TITLE 42 U.S.C. §1983?

II.

DO CALIFORNIA SHASTA COUNTY SUPERIOR COURT JUDGES HAVE JUDICIAL IMMUNITY OUTSIDE THEIR COURTROOMS, WHO, WITH OTHER TRUSTEES ENACT A RULE, THEN ENFORCE AND

INSTRUCT PERSONNEL TO ENFORCE THE RULE, ALLOW ME ONLY 2 HOURS PER DAY AS A NON-LAWYER LITIGANT IN COURT IN PROPRIA PERSONNA, DENY ME ACCESS DURING REGULAR COURTHOUSE BUSINESS HOURS, BEFORE, DURING AND AFTER COURT UNTIL 3PM TO 5PM; THEN, RE-ENTER THEIR COURTROOMS AND DETERMINE THE LAW IN MY ACTIONS, KNOWING IN ADVANCE PRIOR RESTRAINTS HAD BEEN PLACED ON MY LIBERTIES AND FREEDOMS OF THE UNITED STATES CONSTITUTION?

III.

IS MY COMPLAINT AND CLAIM FOR DAMAGES "---IN THE AMOUNTS AS STATED IN THE AFORE--SAID ACTIONS----" ETC., VALID FOR EXEMPLARY AND PUNITIVE DAMAGES IN MY CIVIL RIGHTS ACTION AND IF NOT, MAY IT BE AMENDED AND SUPPLEMENTED UNDER FEDERAL RULES OF CIVIL PROCEDURE 15?

IV.

IF THIS COURT DETERMINES THAT PETITIONER WAS DENIED EQUAL PROTECTION AND OPPORTUNITY OF THE LAW, ARE CALIFORNIA JUDGMENTS VALID?

V.

IS TITLE 42 U.S.C.§1988 DISCRIMINATORY IN MAKING NO PROVISION FOR PRO SE NON-LAWYER LITIGANTS AS PREVAILING PARTY IN CIVIL RIGHTS ACTIONS FOR A SUM EQUAL TO AN ATTORNEY'S FEE GIVEN TO PREVAILING PARTIES REPRESENTED BY LAWYERS?

VI.

IS CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTIONS 6301, 6343, 6360 OVERBROAD AND WITHOUT PROTECTIVE RESTRICTIONS TO ELIMINATE RULES REPUGNANT TO THE UNITED STATES CONSTITUTION?

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1982

NO._____

MINTA H. REICHEL, AS A CALIFORNIA SHASTA COUNTY OWNER RESIDENT AND AS A NON-LAWYER LITIGANT APPEARING IN CALIFORNIA SHASTA COUNTY SUPERIOR COURT IN PROPRIA PERSONNA

PETITIONER

VS

CALIFORNIA SHASTA COUNTY SUPERIOR COURT JUDGES AS FOLLOWS: HONORABLE JUDGE CLYDE SMALL, HORABLE JUDGE RICHARD W. ABBE, HONORABLE JUDGE RICHARD B. EATON (RETIRED), HONORABLE JUDGE WILLIAM H. PHELPS; CALIF-IFORNIA SHASTA COUNTY BOARD OF SUPERVISORS, HENRY KEEFER (RETIRED), BESSIE L. SANDERS, PATRICK LA POINTE (RETIRED), JOHN R. CATON, R.D. "DAN" GOVER, SUSAN L. EVANS, STEPHEN C. SWENDIMAN, OFFICIALLY ELECTED/APPOINTED DULY EMPLOYED COUNTY EMPLOYEES AND EX OFFI-CIO MEMBERS OF THE SHASTA COUNTY BOARD OF

DIRECTORS OF THE SHASTA COUNTY LAW LIBRARY, ROBERT A. REHBERG, SHASTA COUNTY COUNSEL (RETIRED), DULY APPOINTED, EMPLOYED SHASTA COUNTY COUNSEL;LAWRENCE W. CARR, ALBERT F. CUNNINGHAM, TODD C. FINEBERG, ATTORNEYS AT LAW, INDIVIDUALLY AND OFFICIALLY APPOINTED MEMBERS OF THE CALIFORNIA SHASTA COUNTY LAW LIBRARY BOARD OF DIRECTORS; DOES ONE THROUGH SIX NAMED AS FOLLOWS:
CIBULA, RANDALL J. PRESLEIGH, CITY OF REDDING ATTORNEY EARL D. MURPHY , CITY OF REDDING COUNCILMAN ARCHER PUGH, NELS CHRISTENSEN, ROLAND IVERSON, ATTORNEYS AT LAW, DOES SEVEN THROUGH DOES ONE HUNDRED, INCLUSIVE,

RESPONDENTS.

TO MY KNOWLEDGE NO OTHER CASES ARE CONCERNED WITH THIS CASE EXCEPT DEFENDANTS OF CALIFORNIA SHASTA COUNTY ACTIONS, CITY OF REDDING, EMPLOYEES AS DEFENDDANTS

TABLE OF CONTENTS

OPINIONS BELOW---------- 1

JURISDICTION---------- 2

CONSTITUTION AND STATUTES INVOLVED-- 6

STATEMENT OF THE CASE---------- 8

STATEMENT IN SUPPORT OF WRIT-------- 32

ARGUMENT, QUESTION I.---------- 33

FOURTEENTH AMENDMENT---------- 36

FIRST AMENDMENT---------- 38

FIFTH AMENDMENT---------- 41

THIRTEENTH AMENDMENT---------- 49

SECTION 1983---------- 34

SECTION 1985(2)(3)---------- 49

SECTION 1988---------- 61

QUESTION II---------- 55.

QUESTION III----------

QUESTION IV----------

TABLE OF AUTHORITIES

AMERICAN TOBACCO CO V UNITED STATES
328 US 781----------52

BETTER AUSTIN V KEEFE, 402 US 415------40

BOARD OF EDUCATION ISLAND TREE UNION
V PICO, #80-2043, 82 DAILY JOUR.
D.A.R. 1741 (1982)----------40,47

BOARD OF REGENTS V ROTH 404 US 909--47,

BODDIE V CONNETTICUTT, 401 US 371-- 46

BRITT V ARVANITIS 590 F2d 57----------35

BROWN V HARTLAGE, 42 CCH BULL B2060----43

CHICAGO COUNCIL OF LAWYERS V BAUER ----40
522 F2d 242, CERT.DENIED 427 US 912

CROWE V LUCAS, 595 F2d 985 ----------52

DENNIS V SPARKS, 101 S CT 183 -----37, 56

ESTES V TEXAS 381 US 532---------- 40, 47

ELROD V BURNS 427 L ED2d 547--------- 40

FLETCHER V PECK 10 US(6CRANCH) 87----- 5

GOMEZ V TOLEDO, 446 US 635----------34,37

GRIFFIN V BRECKENRIDGE 403 US 88----- 49

HAGUE V CIO 307 US 496---------- 40

HILDEBRAND V HONEYWELL, INC---------- 35

INDUSTRIAL BLDG. MATERIALS INC. V
INTERN.CHEM.CORP. 437 F2d 1336------52,

IN RE MURCHISON ET AL V MINNESOTA---40, 47
283 US 697-

JAGO V VAN CUREN 102 S CT 31-------- 47

LANDMARK COMMUNCATIONS INC-V COMM------ 40
WEALTH , 56 L ED2d 1,

LOGAN V ZIMMERMAN BRUSH 102 S CT 1148-41,47

LORETTO V TELEPROMPTER MANHATTAN CATV--44
82 DAILY JOUR. D.A.R. 1865

MCLAIN V REAL ESTATE BD OF NEW ORLEAN-- 34,
100 S CT 502

MILLS V HABLUETZEL 42 CCH S CT BULL-----37
B2009

MONELL V NEW YORK, 436 US 658,------37,54,

NEAR V MINNESOTA 283 US 697----------40

OWEN V CITY OF INDEPEND. 415 US 622--37,54

PERRY V SINDERMAN, 408 US 593 ----------47

O'CONNOR V MOWBRAY 504 F. SUPP 139------ 5

PROCUNIER V MARTINEZ 416 US 396---------39

SOUTHEASTERN PROMOTIONS LTD V CONRAD--40,46
420 US 546

SPEISER V RANDALL, 357 US 513--------40,

SCHEURER V RHODES, 416 US 232---------34,40

SUPREME CT. ON CIVIL LIABILITY OF----- 52
JUDGES, 55 L ED2d 850

SUPREME CT. ON RIGHT OF FREE SPEECH--- 39
AND PRESS, 12 L ED2d 976

TINKER V DES MOINES COMM. SCHOOL------- 39
393 US 503

TUMEY V OHIO 273 US 510----------43

UNITED MINE WORKERS V ILLINOIS STATE---40
BAR,

US V PRICE 838 US 787----------40

WEBER V AETNA CASUALTY SURETY CO--------43
406 US 164

WIDMAR ET V VINCENT ET AL 102 S CT 269--47

WOOD V STRICKLAND, --------52

WRIGHT V LANE COMMISSIONERS, ----------5
459 F2d 1021

CALIFORNIA CASES

HOLTZ V SUP CT. (1970) 3CAL3d 302------45

MARIN V SAN RAPHAEL (1980) ----------45
111 CA3d 302 (FOLLOWING HOLTZ)

BOARD OF LAW LIBRARY TRUSTEES V LOWRY--46
67 CA2d 480

ARTICLES

BICENT. HIST. AMER. LAW LIBRARY ------46
LLJ, VOL 69,P528, VOL 67,P325

CALIFORNIA CODES

CALIFORNIA BUS.PRO. CODES §§6301 et seq
APP-AL, INFRA pp 85a

CALIF. CIVIL CODE §832-APP-B1, INFRA 95a

CALIF. CODE CIV.PRO. §583 APP-C1, INFRA, 98a

U.S. AMENDMENTS AND CODES

FOURTEENTH AMENDMENT----- 2,5,36,41,49,55

FIRST AMENDMENT----------38

FIFTH AMENDMENT----------41, 46

THIRTEENTH AMENDMENT---------- 49

42 U.S.C. SECTION 1983---33,34,35,55,

SECTION 1985(2)(3)---- 49,51,53,

SECTION 1986---------- 56

SECTION 1988---------- 61

OPINIONS BELOW

ON MAY 27, 1982, BY ORDER, UNITED STATES COURT OF APPEALS OF THE NINTH CIRCUIT DENIED MY PETITION FOR REHEARING WITH SUGGESTION OF REHEARING EN BANC; AFFIRMED THEIR MEMORANDUM OF DISMISSAL FILED MARCH 31, 1982, WITH JUDGE BOOCHEVER DISSENTING. PREVIOUSLY ON 19 FEBRUARY 1981, CIRCUIT JUDGES TANG AND SKOPIL HAD DENIED DEFENDANT APPELLEES MOTION TO DISMISS MY APPEAL OF MEMORANDUM AND ORDER WITH PREJUDICE FILED ON MARCH 18, 1980 BY UNITED STATES DISTRICT COURT OF THE EASTERN DISTRICT OF CALIFORNIA[1].

ON AUGUST 23, 1982 MISTER JUSTICE WILLIAM H. REHNQUIST GRANTED MY PETITION FOR EXTENSION OF TIME TO FILE MY PETITION FOR WRIT OF CERTIORARI TO, AND INCLUDING, SEPTEMBER 24, 1982, NO. A117.

1. APP-A,B,C,D, INFRA, 1a-21a

JURISDICTION

MY PETITION FOR WRIT OF CERTIORARI WAS FILED JULY 22, 1982, CORRECTING MY NOTICE OF APPEAL FILED JUNE 10, 1982[2].

JURISDICTION OF THIS UNITED STATES SUPREME COURT IS INVOKED UNDER 28 U.S.C. 1254(1) SUPREME COURT RULE 17.1(a)(c)[3], ARTICLE III SECTION 2(1) AND ARTICLE IV SECTION 2, THROUGH THE FOURTEENTH AMENDMENT, THE FIRST, FIFTH, THIRTEENTH AMENDMENTS OF THE FEDERAL CONSTITUTION, AS WELL AS THE CIVIL RIGHTS ACT OF 1871, EQUAL RIGHTS AMENDMENT 1964, 42 U.S.C. §§1983, 1985(2)(3), 1986, 1988, 2000a-1[4].

I HAVE EXHAUSTED ALL OF MY CALIFORNIA COURT REMEDIES FOR A DETERMINATION OF MY

2. APP-E, INFRA, PP 22a
3. "-(a)WHEN A FEDERAL COURT OF APPEALS HAS RENDERED A DECISION IN CONFLICT WITH THE DECISION OF ANOTHER FEDERAL COURT OF APPEALS ON THE SAME MATTER; ---(c) WHEN A FEDERAL COURT OF APPEALS HAS DECIDED AN IMPORTANT QUESTION OF FEDERAL LAW WHICH HAS NOT BEEN, BUT SHOULD BE SETTLED BY THIS COURT, OR HAS DECIDED A FEDERAL QUESTION IN A WAY IN CONFLICT WITH APPLICABLE DECISIONS OF THIS COURT."
4. APP-Z, INFRA, pp 77a

UNITED STATES CONSTITUTIONAL LIBERTIES AND FREEDOMS AND RIGHTS OF ACCESS TO OUR LAWS, CODES, STATUTES AND CASE LAW WITHIN THE CALIFORNIA SHASTA COUNTY LAW LIBRARY, HEREINAFTER REFERRED TO AS LIBRARY, BEFORE DURING AND AFTER COURT UNTIL 3 PM TO 5 PM. ACCORDING TO THE RULE, SUPRA[5]. MY EFFORTS TO OBTAIN A DETERMINATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTIONS 6301, 6321, 6322, AND 6360[6] WERE DISMISSED

5. 1)LTR. TO SHASTA COUNTY SUPERIOR COURT JUDGES; 2)SUBMITTED TO CAL.SHASTA CO.TRUSTEES WHO VOTED DOWN MY REQUEST 3 TO 1; 3) LTR. TO JUDGE RICHARD W. ABBE; 4) LTR. REQ. EX. TIME FOR HEARING CAL. SUPREME CT. AS I WAS TOO ILL TO TRAVEL 160 MILES AND REMAIN TO RESEARCH LAW, 5) CAL.CT.APPEALS THIRD DIST. IN 3 CIVIL 17535, 3 CIV 16263.

6. IN 16263: "---PLAINTIFF'S CONTENTION REGARDING HER LIMITED USE OF THE LAW LIBRARY IS NOT SUPPORTED BY CASE AUTHORITY; THEREFORE IT MAY BE DEEMED TO BE WITHOUT FOUNDATION AND REQUIRES NO DISCUSSION.(SOLOMONT V POLK DEVELOPMENT CO. (1966) 245 CAL.APP 2d, 488, 496. THE JUDGMENT IS AFFIRMED." IN 17535:"---(FN) PLAINTIFF'S CONTENTION THAT RESTRICTED USE OF THE LAW LIBRARY CONSTITUTES A DENIAL OF DUE PROCESS AND EQUAL PROTECTION OF THE LAW IS NOT PROPERLY BEFORE US (CODE CIV. PRO. SEC. 904.1)" --- APP-G;PI, INFRA, PP-27a, 33a

AS I HAD FILED "NOTICE OF APPEAL BY PETITION OF WRIT OF MANDAMUS"[8].

A REVIEW OF THIS COURT IS TIMELY AS OTHER CALIFORNIA SHASTA COUNTY NON-LAWYER LITIGANTS IN PRO SE HAVE BEEN 'LOCKED-OUT' OF THE LAW LIBRARY WHILE BEFORE THE FEDERAL DISTRICT COURT IN SACRAMENTO SUING THE CALIFORNIA SHASTA COUNTY[9], AND OTHER COUNTY RESIDENTS HAVE OBJECTED TO THE CLOSURE[10], AND UNDER CALIFORNIA LAW, MAY BE REPEATED.

THE NINTH CIRCUIT FEDERAL COURTS ALSO DIFFER IN OPINION: OREGON DETERMINED LAWYERS IN PRO SE COULD USE THE LAW LIBRARY DURING BUSINESS HOURS 8 AM TO 5 PM BUT NOT AFTER 5PM AS GIVEN LAWYERS: IN THE INTEREST OF SECURITY AND ALSO, AS A UNIVERSITY LAW LIBRARY WAS CLOSE BY[11]. THE NEVADA DISTRICT COURT (1980) SAID NON-LAWYERS IN PRO SE COULD USE THE NEVADA

8. APP-T, U,V,W, INFRA, PP 68a-72a
9. APP-D1, INFRA, 99a-106a
10. APP-F1, -H1, INFRA, PP 109a-114a

SUPREME COURT LIBRARY AS DID LAWYERS FOR THERE WAS NO PLACE ELSE TO GO, AND THE PRO SE LITIGANTS HAD TO WORK AND TRAVEL SOME 20 MILES AND MORE TO THE LIBRARY[12], CITED BY JUDGE BOOCHEVER IN HIS DISSENTING OPINION, SUPRA.

A DETERMINATION OF THIS COURT IS NEEDED AS CALIFORNIA BUS. AND PRO. CODE IS SO LOOSELY WRITTEN THE RULE MAY BE REPEATED[13].

THIS COURT HAS JURISDICTION UNDER ARTCLE III SECTION 2(1) TO RULE UPON CONSTITUTIONALITY OF STATE STATUTES[14], TO REVIEW STATE COURT JUDGMENTS[15], UNDER SUPREMACY CLAUSE ARTICLE VI, SECTION OF THE UNITED STATES CONSTITUTION.

IN ACCORDANCE WITH SUPREME COURT RULE 28(b) I NOTIFY THIS COURT THAT 28 U.S.C. §2403(a)(b) MAY BE APPLICABLE AS I HAVE

11. WRIGHT V LANE COMMISSIONERS, 459 F2d 1021 (1972)
12. O'CONNOR V MOWBRAY 504 F.SUPP 139(1980)
13. CAL. BUS.& PRO.CODE §§6301,6343,6360 INFRA,
14. FLETCHER V PECK 10 U.S. (6 CRANCH)87, 4 L.ED. 97 (1816)
15. US CONST.AMEND.14-APP-F, INFRA-pp26a

CHALLENGED 42 U.S.C. §1988 AS BEING DISCRIMINATORY BETWEEN PREVAILING PARTIES AND CALIFORNIA BUSINESS AND PROFESSIONS CODE §§6301, 6343, 6360 AS BEING OVERBROAD IN ALLOWING A GROUP OF LAWYERS AND OTHERS TO CONTROL ACCESS TO THE COURTS BY CONTROLLING ACCESS TO THE LAW LIBRARIES BEFORE, DURING, AND AFTER COURT AND THEREFORE BEING REPUGNANT TO THE UNITED STATES CONSTITUTION.

I PRAY THIS COURT WILL ACCEPT JURISDICTION.

U.S. CONSTITUTION AMENDMENTS AND STATUTES INVOLVED HEREIN

UNITED STATES CONSTITUTION AMENDMENTS FIRST, FIFTH, THIRTEENTH, FOURTEENTH, APP-F, INFRA, PP 25a

42 U.S.C. §§1983, 1985(2)(3), 1986, 1988, APP-Z, INFRA, 77a-

CALIFORNIA BUSINESS AND PROFESSIONS CODE §§6301, 6304, 6320, 6321, 6322, 6322.1, 6343, 6360, 6361, APP-A1, INFRA, PP 85a

CALIFORNIA CIVIL CODE §832

APP-B1, INFRA, 95a

CALIFORNIA CODE OF CIV PROCEDURE §583

APP-C1, INFRA, PP 98a

CITY OF REDDING ORDINANCE #944

APP-I1, INFRA, PP 116a

STATEMENT OF THE CASE.

THIS IS A SUIT SEEKING DAMAGES OF ABOUT $2 MILLION FROM THE CALIFORNIA SHASTA COUNTY SUPERIOR COURT JUDGES, WHO OUTSIDE THEIR JUDICIAL IMMUNITIES, WITH OTHER TRUSTEES AND OTHERS, DETERMINED IN THEIR OCTOBER 1974 MEETING TO CLOSE THE LAW LIBRARY TO THE PUBLIC GIVING KEYS TO THE LAWYERS[18], AND EARLY IN 1975 POSTED THE SIGN ON THE LAW LIBRARY DOOR LOCATED ON THE THIRD FLOOR OF THE COURTHOUSE:

"LAW LIBRARY OPEN TO THE PUBLIC 3PM TO 5PM

1. ONLY LAWYERS MAY CHECK OUT BOOKS.
2. CHECK OUT PERIOD IS ONE WEEK.
3. WHEN LIBRARY IS CLOSED, LAWYERS MAY OBTAIN KEY FROM JUDGES' SECRETARY'S OFFICE, RELOCK DOOR WHEN LEAVING, RETURN KEY TO SECRETARY WHO WILL THEN CHECK OUT BOOKS WITHDRAWN BY LAWYERS."

NON-LAWYER LITIGANTS IN COURT IN PRO-PRIA PERSONNA WERE CONSIDERED OF THE 'NON-LAWYER PUBLIC' AND I WAS RE-USED ACCESS TO THE CODES, PROCEDURES, STATUTES BEFORE, DURING, AND AFTER COURT UN-

18. APP-JL, INFRA, 120a

TIL 3PM TO 5 PM WHICH CONTINUED UNTIL LATE JANUARY 1978, AFTER I REQUESTED CALIFORNIA SUPREME COURT FOR TIME EXTENSION FOR PETITIONING FOR HEARING AS I WAS TOO ILL TO TRAVEL 160 MILES TO UNIVERSITY OF CALIFORNIA AT DAVIS AND REMAIN TO RESEARCH LAW FOR MY PETITION[19].

THEN THE LIBRARY OPENED: 1 PM TO 5 PM. BUT I CONTINUED TO BE DENIED ACCESS IN THE MORNING UNTIL FEBRUARY 14, 1980 WHEN IT WAS OPENED FROM 8 AM TO 5 PM. I WAS NOT ALLOWED TO CHECK OUT BOOKS UNTIL SEPTEMBER 1980 WHEN I RECEIVED A PHONE CALL FROM TODD FINEBERG ADVISING ME OF THE CHANGE.

WHILE I TRIED TO PROTECT MY PROPERTY IN COURT, INFRA, I REPEATEDLY REQUESTED USE OF THE LAW LIBRARY FROM SUPERIOR COURT JUDGES, ORALLY IN COURT, AND BY LETTER[20].

19. APP-K1, INFRA, 122a

20. APP-L1,M1, INFRA, 125a-129a

20. #80-4328, DC S79-73MLS, INC. ATTACH OF: LTR. COMP. & CLAIM TO SHASTA CO. SUPER. LTRS. TO JUDGES, RPTR.TR. 7/6/76, LTR.GR. JURY C/O SMALL, LOC. NEW. AD, REJECT. BY CO. 8/1/78, CIT. CAL. GOV. CODE §945.6,

THE TITLE OF THIS CASE MAY BE A PROBLEM TO THIS COURT. I AM SORRY. THIS COURT MAY SEE THAT MY CASE STATES ALLEGATIONS AGAINST CALIFORNIA SHASTA COUNTY SUPERIOR COURT JUDGES OUTSIDE THEIR JUDICIAL COURTROOM IMMUNITIES, WITH OTHER TRUSTEES, INITIATED A RULE, ENFORCED AND INSTRUCTED PERSONNEL TO ENFORCE THE RULE, THEN TWO JUDGES RE-ENTERED THEIR COURTROOMS AND DETERMINED THE ISSUES OF MY ACTIONS. THEREFORE, I TITLED THIS CASE ACCORDINGLY.

MY ACTION $54512 STATES ALLEGATIONS FOR LEGAL MAL-PRACTICE, STILL PENDING ALTHOUGH CALIFORNIA STATUTE HAS EXPIRED, INF.

ACTION #54513 AND #58028 WERE FILED TO PROTECT MY PROPERTY AND PROPERTY RIGHTS. CALIFORNIA GOVERNMENT CODE REQUIRES THAT WITHIN 100 DAYS OF INJURY CLAIM BE FILED THEN 45 DAYS FOR GOV'T AGENCY TO REJECT THE CLAIM, AND 6 MONTHS FROM THAT DATE TO FILE A COMPLAINT AND CLAIM.

SIX MONTHS AFTER COUNTY REJECTION OF MY CLAIM, ON JANUARY 29, 1979 I FILED MY MOTION FOR PERMISSION TO FILE MY COMPLAINT ACCORDING TO U.S. SUPREME COURT RULES AS DISTRICT COURT RULES WERE UNAVAILABLE. LATER, MY FIRST AMENDED COMPLAINT NAMING 'DOE' DEFENDANTS, AND MY SECOND AMENDED COMPLAINT IN #80-4328, D.C. S79-73MLS.

THIS CASE BEGINS LATE IN 1969 WHEN I RETURNED TO REDDING, SHASTA COUNTY, CALIF. MY NEIGHBOR TOLD ME OF WEEDS IN THE DRAINAGE CREEK TRAVERSING THE NORTH SIDE OF MY RENTAL PROPERTY FROM WEST TO EAST; CHANGING THE WATER FLOW SOUTHERLY TOWARDS THE RETAINING WALL. I PHONED THE CITY TO CLEAN OUT THE WEEDS; BUT THEY ALSO DUG FROM THE CREEK CENTER AT THE NORTHEAST CORNER, APPARENTLY ON THE ADJOINING PROPERTY. LATER '76 SURVEY OF MY PROPERTY SHOWED MY EASTERLY FENCE APPROXIMATELY 2 1/2 FEET INSIDE THE PROPERTY LINE.(#58025 ATTACHMENTS).

DURING THIS TIME THE CITY PLANNING COMMISSION NOTIFIED ME OF CONSTRUCTION OF AN OFFICE BUILDING TO BE BUILT BY MY EASTERN ADJOINING PROPERTY OWNERS, TWO OF WHOM WERE CITY AND COUNTY PLANNING COMMISSIONERS[21]. SUCH CONSTRUCTION WOULD NECESSITATE INSTALLATION OF A CULVERT[22], WHICH MAY INTERFERE WITH A SEWAGE PIPE. THE BUILDING PERMIT WAS GRANTED ON JANUARY 13, 1970.

DRAINAGE WATERS FLOWED EAST ON THE NORTH SIDE OF MY PROPERTY BETWEEN RETAINING WALLS: THE NORTHERN OWNERS' WALL BEING STRAIGHT EAST THEN QUICKLY CURVED TO THE WEST STREET CULVERT MOUTH APPROXIMATLY 210 FEET; MY SOUTH RETAINING WALL EXTENDED TO MY ASSUMED EASTERN PROPERTY LINE THEN SOUTH ABOUT 5 FEET, MY FENCE CONTINUING SOUTH TO JOIN MY SOUTH NEIGHBOR'S FENCE. ON THE EAST THE WATERS WIDENED TO A BOGGY SWALE, WHICH FILLED SOMETIMES OVERFLOWING

21. DEFEND. WOODWARD AND OCHINERO
22. APP-N1, INFRA, PP130a

THE NORTH WALL FLOODING THE ENTIRE AREA. AT ONE TIME, MY HUSBAND AND I OWNED THE ADJOINING PROPERTY BUT WENT OUT OF TITLE, KEEPING THE CHESTNUT PROPERTY.

I FILED THE LETTER OF COMPLAINT AND CLAIM. ALVIN M. CIBULA, SENIOR MEMBER OF CIBULA AND CIBULA AND FORMER CITY ATTORNEY, FILED CALIFORNIA SHASTA ACTION #42361, FOR NEGLIGENCE IN CLEAN-OUT AND MAINTENANCE AGAINST CITY OF REDDING AND NEGLIGENCE IN CONSTRUCTION UNDER CALIFORNIA CIVIL CODE §832[23].

ON APRIL 17, 1973, THREE YEARS LATER, THE CASE WENT TO TRIAL COURT WITH JUDGE RICHARD W. ABBE PRESIDING. AFTER THE CASE WAS SUBMITTED ON APRIL 19, 1973, ALVIN M. CIBULA AND FRANKLIN S. CIBULA AND I HAD A DISCUSSION: CIBULAS DEMANDED DISCHARGE; I REFUSED AS I ASSUMED THERE WAS MUCH REMAINING TO DO. THEY MOTIONED THE COURT FOR DISCHARGE: TRIAL COURT JUDGE

23. APP-B1, INFRA, 95a

GRANTED DISCHARGE MAY 1, 1973.

I WAS WITHOUT REPRESENTATION IN COURT TO FINISH THE TRIAL.

NO LOCAL NOR OUT OF TOWN LAWYER WOULD TAKE THE CASE ON CONTINGENCY AND I DIDN'T HAVE CASH TO PAY. RATHER THAN LOSE BY DEFAULT, I STOOD IN COURT IN PRO PER.

ON MAY 22, 1973 FRANKLIN S. CIBULA WROTE ME OFFERING TO ASSIST ME AND "DO ALL FINAL DOCUMENTS" AS I OWED THEM MONEY. DESPERATE, I ACCEPTED[24].

THE COURT FOUND FOR ME BY MEMORANDUM OF DECISION WITH $985.00 PLUS COSTS[25].

FRANKLIN S. CIBULA WROTE TWO DOCUMENTS FOR ME AS ALLEGED IN #54512: OBJECTION TO AMOUNT IN MEMORANDUM AND MOTION FOR TAX COSTS, WITH MY NAME IN PROPRIA PERSONNA, CUT HIS CO-PARTNERSHIP LETTER HEAD FROM THE LOWER LEFT HAND CORNER, INSTRUCTED ME HOW TO FILE IT, WHICH I DID[26].

---

26. APP-K, INFRA, 43a
25. APP-L, INFRA, 45a
26. CERT.COPY #42361, 3 CIV 14495 AT C/A

CLYDE SMALL, CITY OF REDDING DEFENSE COUNSEL AND THEREAFTER APPOINTED SUPERIOR COURT JUDGE, REQUESTED FINDINGS OF FACTS AND CONCLUSIONS OF LAW[27]. DEFENDANTS FILED OBJECTIONS WITH POINTS AND AUTHORITIES. NO DOCUMENTS WERE FILED FOR ME. THE TRIAL COURT REVERSED AND FOUND FOR DEFENDANTS[28].

JUDGMENT WAS ORDERED. LATER I REQUESTED FINDINGS OF FACT AND CONCLUSIONS OF LAW, BUT WAS REFUSED[29].

I DIDN'T KNOW ANYTHING ABOUT LAW, EXCEPT WHERE I SAT AS A WITNESS. BUT I APPEALED THE JUDGMENT[30].

DURING THIS TIME, WILLARD WOODWARD AND ED OCHINERO DEFENDANTS, RESIGNED AS CITY AND COUNTY PLANNING COMMISSIONERS. ARCHER PUGH, ON MY INFORMATION AND BELIEF, WOODWARD'S LEGAL COUNSEL, IN 1973 BECAME CITY COUNCILMAN; CLYDE SMALL WAS APPOINTED JUDGE.

27. APP-M, N, INFRA, 49a, 53a
28. APP-P, INFRA, 57a
29. APP-O, INFRA, 56a
30. 3 CIVIL 14495.

JUDGE CLYDE SMALL WITH OTHER SHASTA COUNTY BOARD OF TRUSTTEE MEMBERS FOR THE SHASTA COUNTY LAW LIBRARY, HEREAFTER REFERRED TO AS TRUSTEES, ON OCTOBER 31, 1974 AT THEIR MEETING:

"---TO CIRCULARIZE THE BAR AND TO DEPLORE THE LACK OF FORMALITY PRESENTLY EXISTING WITH RESPECT TO THE REMOVAL AND RETURN OF THE BOOKS---"

AND DECIDED TO CLOSE THE LAW LIBRARY EXCEPT WHEN A LIBRARIAN WAS PRESENT[31]. EARLY IN 1975 THE SIGN, SUPRA, WAS POSTED ON THE LAW LIBRARY DOOR LOCATED ON THE THIRD FLOOR OF THE COURTHOUSE.

AS A NON-LAWYER LITIGANT IN PRO PER IN 3 CIVIL 14495, THE LAW LIBRARY WAS CLOSED TO ME WHILE PREPARING FOR ORAL HEARING ON MAY 22, 1975. SO I BEGAN TO DRIVE 165 MILES DISTANCE TO SACRAMENTO AND UNIVVERSITY OF CALIFORNIA AT DAVIS, TO RESEARCH LAW. I PARKED MY OLD VW CAMPER VAN ON A DIFFERENT STREET EACH NIGHT SO NO ONE

31. APP-J1, INFRA, 120a

WOULD KNOW A WOMAN ALONE WAS SLEEPING IN IT. IT WAS SCARY. AROUND DAWN I WOULD LEAVE, USE FACILITIES AT AN ALL-NIGHT RESTAURANT, AND WARM UP WITH HOT COFFEE. IN SUMMER I DIDN'T DARE TO OPEN A WINDOW.

ON MAY 22, 1975 AT ORAL ARGUMENT I MADE MY PRESENTATION. COUNSEL FOR DEFENANTS APPELLEES STATED:
"I REPRESENT---WE HAVE NOTHING TO SAY".
THE COURT ACTED QUICKLY: THE NEXT DAY, MAY 23, THE COURT OF APPEALS OF THE THIRD APPELLATE DISTRICT FILED CONFIRMATION OF LOWER COURT DECISION[32]:

AGAIN I BEGAN TO TRAVEL TO SACRAMENTO AND DAVIS, TO DETERMINE IF I HAD BASIS FOR LEGAL MAL-PRACTICE, AGAINST MY FORMER LAWYERS' REPRESENTATION IN #42361.

ON MAY 7, 1976, I FILED SHASTA ACTION #54512, STATING ALLEGATIONS OF LEGAL MALPRACTICE, FRAUD, WARRANTY, AND BREACH OF CONTRACT, AND #54513 FOR INVERSE COND. ETC

32. APP-P, INFRA, 57a

BUT I HAD MADE ERRORS IN THE COMPLAINTS AND SERVICE ON THE DEFENDANTS:

1. IN #54512 I MAILED THE COMPLAINT TO CIBULA, AND DIDN'T PROPERLY SERVE THE PROBATE #12612 FOR ALVIN M. CIBULA HAD DIED. AND I ATTEMPTED TO ATTACH THE PROBATE PROPERTIES BY WRIT OF ATTACHMENT RATHER THAN FILE A CREDIT CLAIM. I RECEIVED NO REPLY.

2. ACTION #54513 I DELIVERED THE COMPLAINT TO THE REPLACEMENT COUNSEL FOR CITY OF REDDING, WHO SAID HE WOULD DELIVER IT TO CITY ATTORNEY EARL MURPHY. THE CITY DID NOT REPLY. DEFENSE COUNSEL FOR WOODWARD AND NICHOLS ET AL AND OCHINERO CONSTRUCTION ET, REPLIED WITH DEMURRERS STATING RES JUDICATA AND COLLATERAL ESTOPPEL.

THE DEFENDANTS WERE SPLIT.

THESE PROBLEMS PROMPTED ME TO WRITE THE CALIFORNIA SHASTA COUNTY SUPERIOR COURT JUDGES, JUDGE RICHARD B. EATON, JUDGE RICHARD W. ABBE,& JUDGE CLYDE SMALL[33]

33. APP-L1, INFRA, 125a

REQUESTING ADDITIONAL ACCESS TO THE LAW LIBRARY. JUDGE ABBE SUBMITTED IT TO THE TRUATEES MEETING, WHO, APPARENTLY DISCUSSED MY REQUEST, BUT VOTED IT DOWN 3 TO 1[34].

IN #54512 IN COURT I TRIED TO STATE MY NEED FOR USE OF THE LAW BOOKS; STOOD AND TOOK JUDGE CLYDE SMALL'S VERBAL ABUSE[35]. WHO,WITHOUT JURISDICTION AS BEING A LAWYEI IN THE FORMER #42361 UPON WHICH THE LEGAL MALPRACTICE ACTION WAS BASED, ORDERED THE MOTION TO QUASH BE DROPPED AS THE MATTER WAS NOT MOOT, AS SERVICE HAD BEEN PROPERLY MADE AS STATED BY THE DEFENDANTS[36].

AS THE JUDGES CONTINUED TO INSTRUCT PERSONNEL TO REFUSE ME ACCESS TO THE LAW LIBRARY[37], IT SEEMED TO ME THEY WOULD BE PREJUDICE ON ALL MATTERS I PRESENTED. THEREFORE I ATTEMPTED A CHANGE OF VENUE AGAIN IT WAS CALENDARED BEFORE

34. APP-M1, INFRA, 127a
35. APP-01, INFRA, 136a
36. APP-01, INFRA, 137a
37. 3 CIVIL 16644 CLK.TR. PP 100

JUDGE CLYDE SMALL, AGAIN REPRIMANDED FOR TRYING TO STATE NEED OF LAW LIBRARY[37], WHO DETERMINED THE MATTER BEFORE THE COURT THEN TRANSFERRED IT TO JUDGE ABBE, WHO FINALLY SIGNED THE ORDER ON 30 DECEMBER 1976 AND ORDERED DEFENDANTS TO REPLY TO MY FIRST AMENDED COMPLAINT[38]. FINALLY, THE DEFENDANTS REPLIED, AND ALSO FILED A CROSS COMPLAINT[39].

FRANKLIN S. CIBULA CONTINUED TO ACT FOR THE DEFENDANTS, EVEN THOUGH HE WAS A NAMED DEFENDANT, UNTIL JULY 7, 1977.WHEN HE STATED RANDALL J. PRESLEIGH WOULD BE REPRESENTING THE DEFENDANTS. THE RECORDS SHOW DOCUMENTS WERE SIGNED BY PRESLEIGH BUT THE REPORTERS TRANSCRIPTS OF #3 CIVIL 16644 DO NOT SHOW THAT MR. PRESLEIGH SPOKE IN COURT AS REPRESENTING THE DEFENDANTS[40].

37. APP-P1, INFRA, P 144a

38. RPTR.TRANS.OVER-LOOKED BY RPTR AND NOT INCL BUT ATT. TO MY COMP.#80-4328,DC S79-73 MLS, AND MADE A PT. THEREOF AS THOUGH FULLY SET OUT THEREIN, ALSO COPIES OF APP-LTRS. JUDGES, NEWS.AD, LTR.TO.GR.JURY C/O JUDGE SMALL, REJECT.BY CO.

39. 3 CIV16644 CLK.TR.P100;40. RPTR.TR.

IN ACTION #54513, IN THE MEANTIME, I TRIED TO OBJECT TO DEFENDANTS 'WOODWARD-NICHOLS AND OCHINERO DEMURRERS OF RES JUDICATA AND COLLATERAL ESTOPPEL BY #42361, WHICH THE COURT UPHELD AND DISMISSED.

ON AUGUST 14, 1976 HEAVY RAIN CAUSED DRAINAGE WATERS TO RUSH DOWN CALABOOSE CREEK, AND FILLED THE 10 'FOOT WIDE CHANNEL ON MY PROPERTY, UNDERMINED MY RETAINING WALL WHICH TIPPED OVER INTO THE CREEK WITH THE WORK/STORAGE BUILDING WITH TENANT FAMILY'S KEEP-SAKES, SHRUBERY, ALL FOLLOWING INTO THE WATERS, THE WATER OVERFLOWING INTO THE POOL AND THE ADJOINING PARKING LOT, NORTH INTO MY RENTAL PROPERTY NEXT DOOR DAMAGING THOSE TENANTS PROPERTY![41]

THE NEXT DAY IN AN EFFORT TO FIND FAMILY KEEPSAKES, THE TENANT'S BOYS WITH MY SON ENTERED THE WEST END OF THE CULVERT

41. CERTIFIED COPY OF #58025 AND 3 CIVIL 17535 AVAILABLE AT C/A NINTH CIRCUIT: ALSO OTHER CALIFORNIA ACTIONS #42361, #54512, #54513, AS APPEALED 3 CIV 16644, 16263, 16668, BRIEFS.

WITH FLASHLIGHTS, SOME APPROXIMATELY 150 FEET AND WERE BLOCKED BY RUBBLE STACKED HIGH. THEY RETURNED AND RE-ENTERED FROM THE EAST CULVERT OPENING GOING WEST INSIDE AND DISCOVERED THE RUBBLE HAD BEEN CAUGHT AGAINST TWO HUGE PIPES ABOUT 13", A SMALLER ONE ABOVE, ABOUT 21" ABOVE THE CULVERT FLOOR INVERT, A SHORT SPACE APART. AT ANY TIME DURING WATER DRAINAGE SMALL TRASH COULD CATCH AGAINST THE PIPES AND OBSTRUCT THE DOWN-FLOW OF WATERS AND BACK UP THE WATERS WITHIN THE CULVERT AND FILLING THE OPEN CREEK CHANNEL ON MY PROPERTY CAUSING THE CHURNING WATERS TO CONTINUOUSLY ERODE THE LATERAL AND SUB-LATERAL GROUND FROM UNDER MY RETAINING WALL.

ON AUGUST 16, 1976, BEFORE COURT I REQUESTED USE OF THE LAW LIBRARY AND WAS AGAIN REFUSED UNTIL 3PM. IN COURT I MENTIONED THE MATTER, BUT UNABLE TO RESEARCH FOR PROCEDURE FOR UNEXPECTED HAPPENINGS,

DID NOT MOTION THE COURT FOR EXTENSION OF TIME TO OBTAIN SUCH PROCEDURE. NO COURT REPORTER WAS PRESENT IN JUDGE ABBE'S COURT SO THERE WERE NO REPORTER'S TRANSCRIPTS. THE HEARING FOR CITY OF DEMURRERS AS RES JUDICATA AND COLLATERAL ESTOPPEL WERE SUBMITTED; I HAD FOUND THE PROPER PROCEDURE AND SERVED THE CITY OF REDDING ON JUNE 21.

BUT ON JUNE 24, 1976 THE COURT HAD SUSTAINED THE DEMURRERS OF DEFENDANTS' WOODWARD AND NICHOLS AND OCHINERO, JUDGMENT HAD BEEN FILED. SHORTLY AFTER THE FLOODING I APPEALED; #3 CIVIL 16263[42].

CITY OF REDDING DEMURRERS WERE ALSO SUSTAINED AS RES JUDICATA AND COLLATERALLY ESTOPPED. I TRIED TO COMBINE THEM WITH THE OTHER APPEAL BUT WAS UNABLE TO DO SO AND THIS BECAME #3 CIVIL 16668[42].

TOO LATE I FOUND THE CALIFORNIA CODE OF CIVIL PROCEDURE §473 TO VACATE THE DISMISSAL, FILED A MOTION TO ALLOW ME TO FILE

42. REFER TO CLK.TR. 3 CIV 16263 PP49-69.

THE PROPOSED FIRST AMENDED COMPLAINT INCLUDING THE FLOODING AND DISCOVERIES. THE COURT DISMISSED FOR LACK OF JURISDICTION[43].

IN #54512, IN THE MEANTIME, I HAD FILED NOTICE OF LIS PENDENS AGAINST FRANKLIN S. CIBULA'S PROPERTY AND ALVIN M. CIBULA'S PROPERTY IN ESTATE PROBATE #12612 WITH A CREDIT CLAIM UNDER CALIFORNIA PROBATE CODE §573. CIBULA MOVED TO EXPUNGE THE NOTICE BUT HE FILED UNDER AN OLD LAW: THE NEW LAW REQUIRING ADDITIONAL TIME FOR HEARING. IN COURT I WATCHED HIM OPEN THE ENVELOPE, READ THE DOCUMENT, LEAVE THE COURTROOM. LATER HE RETURNED, AND JUST BEFORE THE MATTER WENT BEFORE THE COURT, SERVED ME WITH ANOTHER OBJECTION TO NOTICE OF LIS PENDENS. CIBULA HAD ACCESS TO THE COURT LAW LIBRARY ACROSS THE HALL; WAS ABLE TO CHECK THE CODE, PHONE HIS OFFICE, HAVE THE DOCUMENTS RETYPED, SERVE ME WITH AN-

43. #3 CIV 16263 CLK.TR. PP 96-117; 3 CIV 6668 CLK.TR. PP 10-33; CA CIV.PRO.§473.

OTHER HEARING TWO WEEKS HENCE[44].

IF I HAD MADE THE ERROR I WOULD HAVE HAD TO WAIT UNTIL 3 PM FOR ACCESS TO THE LAW LIBRARY; THE ERROR WOULD HAVE STAYED THE MATTER SUBMITTED TO COURT, AND AGAIN I WOULD LOSE.

THE COURT EXPUNGED THE LIS PENDENS AND I WAS TOLD TO PAY ATTORNEY'S FEES OF $400. AS REQUESTED BY CIBULA[45].

A DETERMINATION IN MY ACCESS TO THE LAW LIBRARY WAS NEEDED. ON FEBRUARY 15, 1977 I FILED A "NOTICE OF APPEAL BY COURT ORDER BY PETITION OF WRIT OF MANDAMUS"[46], #3 CIVIL 16644. IT WAS FILED AS APPEAL.

IN #54513, THE SAME PROCEDURE WAS FOLLOWED AND AGAIN WAS FILED AS AN APPEAL. BUT THE COURT NOTICED THE TWO APPEALS FROM THE SAME CASE AND COMBINED IT WITH 3 CIV 16668. I TRIED TO FILE A PETITION WITH AN

44. 3 CIV16644, RPTR.TR. PP 140; EX.REC. P 410,411; CLK.TR. PP 129,130, 158,-182.
45. #3 CIV 16644 CLK.TR. P142-145;146-150
46. #3 CIV 16644 CLK.TR. P151-185.

APPEAL. THE CLERK REFUSED TO FILE IT. I TRIED TO CORRECT THE ERROR SO A PETITION FOR DETERMINATION OF LAW COULD BE FILED. THE COURT DISMISSED BOTH 3 CIVIL 16668 AND 16644[47].

AS STATED, I TRIED TO FILE A PROPOSED 1ST AMENDED COMPLAINT WITH A MOTION TO VACATE THE DISMISSAL OF #54513. BUT THE SUPERIOR COURT REFUSED[48].

THE COURT OF APPEALS DETERMINATION WAS FILED ON DECEMBER 12, 1977 IN 3 CIV 16263 UPHELD THE DISMISSAL OF THE LOWER COURT AND STATED:

"-----PLAINTIFF'S CONTENTION REGARDING HER LIMITED USE OF THE LAW LIBRARY IS NOT SUPPORTED BY CASE AUTHORITY; THEREFORE, IT MAY BE DEEMED TO BE WITHOUT FOUNDATION AND REQUIRES NO DISCUSSION.(SOLOMONT V. POLK DEVELOPMENT CO. 1966)245 CAL. APP.2d 488, 496.)

THE JUDGMENT OF DISMISSAL IS AFFIRMED"

I PETITIONED FOR REHEARING WHICH WAS DENIED. AND, THE CALIFORNIA SUPREME COURT DENIED MY REQUEST FOR EXTENSION TO FILE

47. APP-T,U,V,W, INFRA, 68a-72a

48. 3 CIV 16263, C.TR. PP 96-117; 3CIV 16668 C.TR. PP 10-33.

MY PETITION FOR HEARING AS I WAS TOO ILL TO TRAVEL TO UNIVERSITY OF DAVIS, CALIF. AND REMAIN TO RESEARCH LAW[49]. THEY REFUSED, BUT THE SHASTA COUNTY LAW LIBRARY WAS OPENED FROM 1 PM TO 5 PM UPON MY RETURN TO REDDING, UNTIL FEBRUARY 14, 1980.

CALIFORNIA GOVERNMENT CODES REQUIRE A CLAIM BE FILED WITHIN 100 DAYS OF INJURY, THE GOVERNMENT AGENCY HAS 45 DAYS TO REJECT CLAIM, THEN A COMPLAINT AND CLAIM MUST BE FILED BEFORE 6 MONTHS HAVE PASSED: TO PROTECT MY PROPERTY INTERESTS I HAD TO FILE MY COMPLAINT[50]. ACTION #58025 WAS FILED FOR FLOOD DAMAGE OF AUGUST 14, 1976, WITH ATTACHMENTS, SO I WOULD NOT LOSE MY RIGHT TO MY CLAIM.

AGAIN THE CITY OF REDDING AND OTHER DEFENDANTS PLEADED RES JUDICATA AND COLATERAL ESTOPPEL BY BOTH #42361 AND #54513.

49. APP-K1, INFRA, p 122a
50. CALIF. GOV. CODE §§911.2, 912.4, 945.6 (a), 3 CIVIL 17535, COMP. W/ATTACH C.TR. PP 1-36.

CITY COUNCILMAN ARCHER PUGH ATTEMPTED TO REPLACE ROLAND IVERSON FOR DEFENDANTS WOODWARD AND NICHOLS BUT I WAS ABLE TO DISQUALIFY HIM AS BEING IN CONFLICT OF INTEREST IN DEFENDING A CLIENT WHO MAY BE IN VIOLATION OF CITY ORDINANCE #944[51].

THE COURT SUSTAINED DEFENDANTS DEMURRERS AND DISMISSED #58025 AS RES JUDICATA. I APPEALED, 3 CIVIL 17535. AGAIN I STATED MY DENIAL OF FAIR ADVERSARY HEARING AND EQUAL PROTECTION OF THE LAW. BUT THE COURT STATED:

"---(FN) PLAINTIFF'S CONTENTION THAT RESTRICTED USE OF THE LAW LIBRARY CONSTITUTES A DENIAL OF DUE PROCESS AND EQUAL PROTECTION OF THE LAW IS NOT PROPERLY BEFORE US. (CODE CIV. PRO. SEC. 904.1)----"

DETERMINED MY CASE WAS FRIVOLOUS AND FINED ME $500.00[52].I PETITIONED FOR REHEARING. DENIED. I PETITIONED CALIFORNIA SUPREME COURT FOR HEARING, DENIED.

IN #54512 TO ENTER COURT FOR TRIAL

51. 3 CIV 17535 R.T.8,9,
52. APP-I, INFRA, 33a

WITHOUT ACCESS TO THE BOOKS OF COURT PROCEDURES, PRETRIAL DEPOSITIONS, EVIDENCE, CODES, BEFORE, DURING AND AFTER COURT, WOULD HAVE BEEN A FARCE AND MISTRIAL OF JUSTICE. BUT THE RULE AS ENFORCED BARRED ME FROM THE BOOKS STATING THE LAWS.

ON JANUARY 29, 1979 IN ACCORDANCE WITH U.S. SUPREME COURT RULES I FILED MOTION FOR PERMISSION TO FILE COMPLAINT WITH ATTACHMENTS AND COMPLAINT WHICH WAS WITHIN 6 MONTH OF REJECTION OF MY CLAIM BY THE SUPERVISIORS ON AUGUST 1, 1979.

THE FIRST AMENDED COMPLAINT NAMED DOE' DEFENDANTS. ON APRIL 16, 1979 I PETITIONED THIS COURT #78-1611, BUT WAS REFUSED.

U.S. DISTRICT COURT JUDGE MILTON L. SCHWARTZ ORDERED THE FIRST AMENDED COMPLAINT FILED, WHICH I INTERPRETED TO MEAN THAT I MUST RE-WRITE MY FIRST AMENDED COMPLAINT; WHICH I DID OVER THE CHRISTMAS HOLIDAYS, WITHOUT REFERENCE BOOKS.AGAIN

WITH ATTACHMENTS MADE A PART THEREOF[53].

AT ORAL ARGUMENT ON MARCH 14, 1980 THE COURT WAS NOTIFIED THAT I WISHED TO AMEND AND SUPPLEMENT MY COMPLAINT TO CURE THE AMOUNTS OF DAMAGES ALLEGED, TO SERVE DEFENDANTS' SPOUSES,AS WE ARE A COMMUNITY PROPERTY STATE, AND CORPORATIONS[54]. THE COURT STATED[55]:

"----THE QUESTION IS WHETHER ACCESS, EQUAL ACCESS TO THE SHASTA COUNTY LAW LIBRARY, EQUAL WITH ALL LAWYERS IN SHASTA COUNTY, IS PART AND PARCEL OF YOUR ACCESS TO THE COURTS.--------IF ON THE OTHER HAND IT IS SIMPLY A DIFFERENT TEST FOR YOU TO GET TO THE -----NOT FOR YOU, BUT FOR ALL NONLAWYERS TO USE THE LAW LIBRARY AS OPPOSED TO LAWYERS, THERE WOULD CLEARLY BE A RATIONAL BASIS FOR THAT DISCRIMINATION OR FOR THAT DIFFERENTIATION. -------YOUR CASE IS DISTINGUISHABLE FROM THE PRISONER CASES -----THEY CAN'T GO ANYWHERE ELSE, ----YOU COULD GO OTHER PLACES. IT MIGHT BE BURDENSOME, BUT THAT'S THE COST SOMETIMES AND THE PRICE OF BEING A HUMAN BEING. THERE ARE OTHER LAW LIBRARIES AVAILABLE.--"

THE COURT DISMISSED MY CASE WITH PREJUDICE.

I APPEALED THE CASE; DEFENDANTS MOTIONED THE COURT FOR DISMISSAL OF APPEAL.

53. SEC.AMEND.COMP. EX.REC. VOL.1,PP11,30.
54. 54. RPTR.TR. S79-73-MLS,80-4328,P9:14
55. RPTR.TR. S79-73MLS,80-4328, P31-33.

CIRCUIT JUDGES TANG AND SKOPIL DENIED THE MOTION[56].AFTER BRIEFING, ORAL HEARING WAS ON DECEMBER 16, 1981 WHEREIN I READ A STATMENT BEFORE CIRCUIT JUDGES WRIGHT, HUG AND BOOCHEVER, WHO AFFIRMED THE DISTRICT COURT DISMISSAL. JUDGE BOOCHEVER DISSENTED, STATING I HAD STATED A CAUSE OF ACTION[57]. MY PETITION FOR REHEARING STATING MATERIAL OVERLOOKED, ERRORS IN INTERPRETATION OF THE CASE, AND RECENT CITATIONS, BUT MY SUGGESTION FOR REHEARING EN BANK WAS DENIED[58],

I APPEALED TO THIS COURT JUNE 10, DISCOVERED MY ERROR AND FILED CORRECTION WITH PETITION FOR CERTIORARI JULY 22, 1982[59].

MY PETITION FOR TIME EXTENSION FILED AUGUST 16, 1982 WAS GRANTED BY MISTER JUSTICE WILLIAM H. REHNQUIST TO AND INCLUDING SEPTEMBER 24, 1982 AND NUMBERED A117.

56. APP-A, INFRA, pp1a-14a
57. APP-A, INFRA, PP 9a-13a.
58. NOT INC. HEREIN SEE ARGUMENT
59. APP-E, INFRA, P 22a

THIS PETITION FOR WRIT OF CERTIORARI SHOULD BE GRANTED TO DETERMINE THE RIGHTS OF AVERAGE UNITED STATES RESIDENT TO THE LAWS UNDER WHICH WE ARE GOVERNED.

AT THIS TIME, PARTICULARLY IN OUT-LYING COMMUNITIES, PEOPLE ARE ACTUALLY CONTROLLED BY ACCESS TO THE LAW.

WITHOUT SUCH A DETERMINATION OF THIS COURT, THE SITUATION WHICH I HAVE JUST EXPERIENCED MAY HAPPEN AGAIN.

THERE MAY NEVER BE KNOWN THE NUMBER OF PEOPLE WHO LOST PROPERTIES, LIBERTIES AND HUMAN RIGHTS, SIMPLY BY BEING 'LOCKED-OUT' OF THE LAW LIBRARY BY THOSE WHO SWORE BY OATH TO PROTECT AND PLEDGE THEMSELVES TO UPHOLD BOTH STATE AND FEDERAL CONSTITUTIONS.

BY CALIFORNIA LAW, THE LITIGANTS IN COURT PAY FOR THE LAW LIBRARY MATERIALS. THE COUNTY ADDS THEIR SUPPORT. THEREFORE, IT DOES NOT BELONG TO LAWYERS ALONE, BUT FOR NON-LAWYERS AS WELL, INCLUDING ME.

PLEASE GRANT WRIT OF CERTIORARI.

ARGUMENT

I.

DID THE RULE AS INITIATED AND ENFORCED:

"LAW LIBRARY OPEN TO THE PUBLIC 3PM TO 5PM

1. ONLY LAWYERS MAY CHECK OUT BOOKS.
2. CHECK OUT PERIOD IS ONE WEEK.
3. WHEN LIBRARY IS CLOSED, LAWYERS MAY OBTAIN KEY FROM JUDGES' SECRETARY'S OFFICE, RELOCK DOOR WHEN LEAVING, RETURN KEY TO SECRETARY WHO WILL THEN CHECK OUT BOOKS WITHDRAWN BY LAWYERS."

BY CALIFORNIA SHASTA COUNTY SUPERIOR COURT JUDGES WITH OTHER TRUSTEES IN A MEETING OUTSIDE THEIR COURTROOMS, ABRIDGE MY LIBERTIES, FREEDOMS, AND RIGHTS UNDER THE UNITED STATES CONSTITUTION, BUT MY ACTION WAS DISMISSED BY THE UNITED STATES COURT OF APPEALS AS NOT STATING A CAUSE OF ACTION UNDER TITLE 42 U.S.C. §1983?

A.

THE UNITED STATES COURT OF APPEALS SHOULD NOT HAVE DISMISSED MY ACTION AS NOT STATING A CAUSE OF ACTION UNLESS THERE WERE NO SET OF FACTS THAT COULD SUPPORT

MY COMPLAINT.[60] THIS COURT STATED THAT ONLY TWO ALLEGATIONS MUST BE MADE UNDER §1983:[61] FIRST, I MUST ALLEGE THAT I HAD BEEN DEPRIVED OF A FEDERAL RIGHT WHICH I DID STATE IN MY SECOND COMPLAINT: THAT I HAD BEEN DEPRIVED OF MY FIRST, FIFTH, THIRTEENTH AND FOURTEENTH AMENDMENTS OF THE FEDERAL CONSTITUTION, AND MY CIVIL RIGHTS UNDER THE CIVIL RIGHTS ACT 1964, AND CIVIL RIGHTS ACT OF 1871[62]. SECOND, I MUST ALLEGE THAT THE DENIAL OF SUCH RIGHT WAS TAKEN UNDER COLOR OF LAW, WHICH WAS ALLEGED AND AGAIN, SUPPORTED WITH DOCUMENTS[63].

FURTHER, THAT THE DAMAGES AS ALLEGED MAY BE FAULTY THAT I INTENDED TO MOTION THE COURT TO AMEND AND SUPPLEMENT THE ACTION

60. APP-A, INFRA, p4a,9a; MCLAIN V. REAL ESTATE BD. OF NEW ORLEANS INC.(1980) 100 S.CT. 502; GOMEZ V TOLEDO, 446 U.S. 635, 640 (1979): SCHEUER V RHODES, 416 US 232.

61. GOMEZ V TOLEDO, SUPRA P 640.

62. P3:5-12; P8:17-19; 26-27; 30-32; P9: 13-18: 23-29; P10:5-7, 15-24; P11: 3-17, 23-30; P12:7-13, 19-21, 23-27.INC.ATTCH., JUDGE EATON'S LTR-APP-E1, INFRA, 107a INFRA APP-

63. FN 62: 2nd AMEND.COMP. WITH ATTACH.

TO NAME DEFENDANTS' CORPORATIONS, SPOUSES, AS CALIFORNIA IS A COMMUNITY PROPERTY STATE, AND SUPPLEMENT COMPLAINT AS STATED TO THE DISTRICT COURT AT ORAL HEARING[64]. AS MY 2ND AMENDED COMPLAINT WAS WRITTEN WITHOUT FULL AND EQUAL ACCESS TO THE LAW LIBRARY AND WITHOUT THE PRIVILEGE OF CHECK OUT OF BOOKS OVER THE HOLIDAY, IT IS A REASONABLE REQUEST UNDER FEDERAL RULE OF CIVIL PROCEDURE 15[65].

MY COMPLAINT SHOULD NOT HAVE BEEN DISMISSED WITH PREJUDICE BY THE DISTRICT COURT OF THE EASTERN DISTRICT AS REPORTER'S TRANSCRIPTS SHOW I WAS NOT IMPROPER NOR IN CONTEMPT AND SUCH SEVERE DISMISSAL WAS NOT WARRANTED[66].

NOR WAS MY CASE FRIVOLOUS. ALL FOUR DEFENDANTS' LAWYERS FAILED TO PLEAD FOR

64. 2nd AMEND.COMP:9; S79-73-MLS R.T:29.
65. J.C. PENNEY CO.,INC.570 F2d 679(3rd1978) BRITT V ARVANITIS (CA3 1978)590 F2d 57
66. HILDEBRAND V HONEYWELL, INC. (CA5 1980)

FEES IN THEIR BRIEFS AS NOTICE BY CIRCUIT JUDGE WRIGHT AT ORAL ARGUMENT. TO TAG MY COMPLAINT FRIVOLOUS SIMPLY TO ASSIST LAWYERS TO OBTAIN FEES IS NOT PROPER.

FOURTEENTH AMENDMENT

THERE WAS A CAUSE OF ACTION STATED UNDER THE FOURTEENTH AMENDMENT WHICH STATES:

"NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDEGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES;NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY OR PROPERTY WITHOUT DUE PROCESS OF LAW; NOR DENY TO ANY PERSON WITHIN IT'S JURISDICTION THE EQUAL PROTECTION OF THE LAWS."

UNDER THE FOURTEENTH AMENDMENT ALLEGATIONS OF DEPRIVATIONS OF MY FIRST, FIFTH AND THIRTEENTH AMENDMENTS AND OF CONSPIRACY §1985(2)(3) MAY BE REACHED BY THIS COURT AND MAY REVIEW THE STATE JUDGMENTS.

THE RULE ON IT'S FACE, SUPRA, STATES DEPRIVATION OF EQUAL PROTECTION OF THE LAW, WHEN IT STATS A CLASS DISCRIMINATION BETWEEN LAWYERS AND NON-LAWYER RESIDENTS, AND BETWEEN LAWYER AND NON-LAYWER LITI-

GANTS IN COURT IN PRO SE[67].

THE RULE ALSO STATES DEPRIVATION OF FIFTH AND FOURTEENTH DUE PROCESS OF LAW. THE'LAW LIBRARY" ITSELF INDICATES THAT IT IS A LIBRARY OF LAW BOOKS, BY LOCATION NEAR THE COURTROOMS, BY CALIFORNIA LAW[68], GIVES EQUAL ACCESS TO LAWYER AND NON-LAWYER LITIGANTS AND RESIDENTS, AND TO THOSE REPRESENTED BY LAWYERS, FILING AND ANSWERING LITIGANTS, BOOKS TO BE USED IN THE COURT OF LAW[69], AND THEREFORE STATES DISCRIMINATION BETWEEN LITIGANTS IN COURT, AND DENIAL OF DUE PROCESS OF LAW TO ONE CLASS OF NON-LAWYER LITIGANTS IN PRO SE[70], THEREFORE IS ACTIONABLE UNDER 42USC §1983.

67. APP-F, INFRA,P 25a
68. CAL.BUS.PRO.CODE §6360;APP-X,PP77a
69. CAL BUS.PRO.CODE §6321,6322,
70. JUDGE EATON'S LTR APP-E1, Infra, 107a MILLS V.HABLUETZEL 42 CCH S CT BULL B2009 LOGAN V ZIMMERMAN 102 S CT 1148 (1982); DENNIS V SPARKS, 101 S CT 183 (1980); GOMEZ V TOLEDO, 446 US 635; SCHEUER V RHODES, 416 US 232 (1974): OWEN V CITY OF INDEPENDENCE, 415 US 622;(1980); MONELL V NEW YORK, 436 US 658, 56 L ED 2d 611, APP-Z, INFRA, PP 77a

1. FIRST AMENDMENT STATES:"CONGRESS SHALL MAKE NO LAW ----ABRIDGING THE FREEDOM OF SPEECH OR OF THE PRESS; OR THE RIGHT OF THE PEOPLE ----TO PETITION THE GOVERNMENT OFR A REDRESS OF GRIEVANCES."

THE RULE PLACED PRIOR RESTRAINTS UPON MY FREEDOM OF SPEECH AND WRITING WHILE PREPARING FOR COURT IN BOTH MY STATE AND FEDERAL COMPLAINTS, FOR I WAS UNABLE TO READ THE COURT RULES, PROCEDURES, FORMS OF PLEADINGS AND MADE MANY ERRORS[71]. THE RULE REMAINED IN EFFECT UNTIL 1980.

COUNTY COUNSEL ATTEMPTED TO REDUCE THE HARM AND THE IMPACT OF THE RULE IN APPELLEES REPLY BRIEF P3:

"----BECAUSE OF LOSS OF AND DAMAGE TO LIBRARY MATERIALS, THE GENERAL PUBLIC'S USE OF THE LIBRARY WAS REDUCED TO TWO HOURS PER DAY, OR APPROXIMATELY 42 HOURS PER MONTH.(APPELLANT'S BRIEF, 1:15-24) THE 42-HOUR LIMITATION REMAINED IN EFFECT JUST OVER THREE YEARS, UNTIL JANUARY 1978 WHEN A SECRETARY-LIBRARIAN BECAME AVAILABLE AND THE LIBRARY POLICY WAS CHANGED TO ALLOW USE BY THE GENERAL PUBLIC FOR FOURT HOURS PER DAY OR ABOUT 84 HOURS PER MONTH. (APPELLANT'S BRIEF 3:28-29, 24:23-28.) THE GENERAL PUBLIC MAY NOW USE THE LIBRARY EIGHT HOURS PER DAY.(SEE ATTACHED AFFADAVIT OF TODD FINEBERG.)"

71. STATEMENT OF THE CASE SUPRA,

AND STATES THAT THE SECURITY OF THE BOOKS IS RATIONALLY RELATED TO A COMPELLING STATE STATE INTEREST AND:

" THE PLACING OF RESTRICTIONS ON THE GENERAL PUBLIC'S USE OF THE LAW LIBRARY BEARS A RATIONAL RELATIONSHIP TO THE ACHIEVEMENT OF A LEGITIMATE COUNTY GOAL."

BUT THE CALIFORNIA BUSINESS AND PROFESSIONAL CODE 6360 STATES![72]

"----THE GIVING OF SECURITY -----FINES AND CHARGES FOR VIOLATION OF THE RULES--"

BUT TO INCLUDE NON-LAWYER LITIGANTS IN COURT IN PRO SE WAS A VIOLATION OF MY CONSTITUTIONAL LIBERTIES AND RIGHTS AND A COMPELLING STATE INTEREST IS THE ONLY THING THAT CAN BE PLACED ABOVE SUCH LIBERTIES AND FREEDOMS[73].

AS JUDGE BOOCHEVER STATED[74], WRIGHT V LANE COMMISSIONERS 459 F2d 1021, DOES NOT APPLY FOR HE WAS GIVEN THE RIGHT OF

72. APP-A1, INFRA, PP91a-93a
73. PROCUNIER V MARTINEZ, 416 US 396(1974) TINKER V DES MOINES COMMUNITY SCHOOL DIST. (1969) 393 US 503; THE SUPREME CT. AND THE RIGHT OF FREE SPEECH AND PRESS, 21 L ED 2d 976 976; 74. APP- A. INFRA, P 12a

ACCESS TO THE LAW LIBRARY DURING REGULAR BUSINESS HOURS; I WAS GIVEN ONLY 2 HOURS.

THE FREEDOM TO SPEAK AND PRESENT WRITINGS BEFORE THE COURT, AND THEREBY, PETITION OUR GOVERNMENT FOR GRIEVANCES ARE TWO OF THE MOST PRECIOUS LIBERTIES AND FREEDOMS, AND HAS BEEN CONSISTENTLY UPHELD.

TO 'LOCK-OUT' LITIGANTS FROM THE LAW LIBRARY IS NO DIFFERENT TO REMOVING BOOKS OUT OF A LIBRARY. NOR CAN A STATE GOVERNMENT TAKE IT UPON THEMSELVES TO DETERMINE WHO DOES OR DOES NOT RECEIVE CONSTITUTIONAL RIGHTS AND FREEDOMS AND LIBERTIES[75].

75. BOARD OF EDUCATION ISLAND TREE UNION V PICO #80-2043, 82 DAILY JOURNAL D.A.R. 1741,(JUNE 1982); WIDMAR ET V VINCENT ET AL (1981) LANDMARK COMMUNICATIONS, INC V COMMONWEALTH OF VIRGINIA (1978) 56 L ED 2d 1, ELROD V BURNS 427 I ED2d 547 (1976) CHICAGO COUNCIL OF LAWYERS V BAUER, 522 F2d 242, 258, CERT DENIED 427 US 912 (1976 MATHEWS V ELDRIDGE, 424 US 319 (1976) SPEISER V RANDALL, 357 US 513, 2 L ED2d 1460, BETTER AUSTIN V KEEFE, 402 US 415, (1971) UNITED MINE WORKERS V ILLINOIS STATE BAR, (1967) ESTES V TEXAS 381 US 532, 540, NEAR V MINNESOTA 283 US 697, IN RE MURCHISON ET AL 349 US 133; SOUTHEASTERN PROMOTIONS LTD V CONRAD 420 US 546. HAGUE V CIO 307 US 496 US V PRICE 383 US 787 (1966).

THE FIFTH AMENDMENT STATES:"NO PERSON SHALL BE ---DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW; NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE, WITHOUT JUST COMPENSATION."

AND IS ACTIONABLE UNDER THE FOURTEENTH AMENDMENT, SUPRA.

ACTION #42361 FILED BY THE CIBULAS' ON MY BEHALF, STATED NEGLIGENCE AND CLEAN-OUT OF DRAINAGE CREEK, NEGLIGENCE IN CONSTRUCTION UNDER CALIFORNIA SECTION #832 SUPRA, AND ACTIONS #54512, #54513, #58025 FOLLOWED THEREAFTER, SUPRA.

IN ACTION #42361, THE MATTER HAD BEEN SUBMITTED TO COURT, MOTION FOR DISCHARGE HAD BEEN GRANTED, I WAS WITHOUT REPRESENTATION, THEN DEFENSE COUNSEL CLYDE SMALL REQUESTED FINDINGS OF FACT, CONCLUSIONS OF LAW IN WHICH THE COURT STATED:

"----HAVING HEARD THE TESTIMONY AND HAVING EXAMINED THE PROOFS OFFERED BY THE RESPECTIVE PARTIES, AND THE CAUSE HAVING BEEN SUBMITTED FOR DECISION, AND THE COURT BEING FULLY ADVISED IN THE PREMISES, NOW MAKES ITS FINDINGS-----"(APP-C1,PP91a-92a).

BUT MADE NO MENTION OF OBVIOUS WINGWALL

TRESPASS. THIS COURT AGAIN RECENTLY STATED EVEN A SMALL PERMANENT TRESPASS IS A TAKING OF PROPERTY[76]. THEREFORE, THE FINDINGS OF FACT WERE FAULTY, DID NOT STATE THE TRUTH OF THE CASE. THAT THERE MUST BE COMPENSATION FOR THE TAKING OF PROPERTY AS IN BOTH FIFTH AND FOURTEENTH AMENDMENTS.

AS TRESPASS AND ENCROACHMENT WAS NOT DETERMINED IN ACTION #42361, THEN IT WAS VALID CLAIM IN ACTION #54513.

BUT THIS COURT CLEARLY REAFFIRMED PRIOR DECISIONS THAT PROCEDURAL DUE PROCESS IN CLAIMS AND COMPLAINTS MUST BE FOLLOWED. THAT WHEN PROCEDURAL DUE PROCESS IS NOT FOLLOWED THE COURT OR HEARING DETERMINATIONS ARE NULL AND VOID. THEREFORE, JUDGMENTS AND OTHER PRE-TRIAL PROCEDURAL DETERMINATIONS IN ACTIONS #54512, 54513,58025 AS APPEALED ARE NULL AND VOID[7].

THIS COURT MAY ALSO AGREE ACCESS TO

76. LOGAN V ZIMMERMAN BRUSH (1982) 102 S CT 1148; APP-F, INFRA, 23a-24a. LORETTO V TELEPROMPTER MANHATTAN CATV. INFRA, FN 80

TO THE LAW LIBRARY IS ACCESS TO COURTS.

THE SECURITY OF LAW MATERIALS WAS NOT OF COMPELLING COUNTY AND STATE INTEREST TO BE PLACED ABOVE MY CONSTITUTIONAL LIBBERTIES AND FREEDOMS. A COURT IS NOT NEUTRAL NOR UNBIASED WHEN THE JUDGES WITH OTHER TRUSTEES VOTE TO STAND FIRM ON THE RULE, SUPRA, THEN ENFORCE AND INSTRUCT THEIR PERSONNEL TO ENFORCE THE RULE ON THE NON-LAWYER PUBLIC, AND ON THE NON-LAWYER LITIGANTS IN COURT IN PRO SE. THEN, THE JUDGE RE-ENTERS THE COURT TO DETERMINE MY ISSUES BEFORE THE COURT. PRE-TRIAL PROCEDURAL COURT PROCESS MUST BE BE FOLLOWED BEFORE AN UNBIASED, NEUTRAL COURT[77] WITHOUT PRIOR RESTRAINTS.

THE COURT IS THE ONLY PLACE I COULD

GO TO PETITION THE GOVERNMENT FOR REDRESS

77. BROWN V HARTLAGE, 42 CCH Bull B2060 (Apr 1982) LOGAN V ZIMMERMAN,(1982) 102 S CT 1148 (1982); ELROD V BURNS 427 US 347, 373, 46 L ED2d 547(1976); WEBER V AETNA CASUALTY SURETY CO., 406 US 164, 92 S CT 1400 (1972)TUMEY V OHIO (1927) 273 US 510.

OF GOVERNMENT VIOLATIONS OF MY PROPERTY AND CONSTITUTIONAL LIBERTIES; TO PRESENT MY LEGAL MAL-PRACTICE CASE FOR DETERMINATION BY THE COURT.

BUT FOR THE RULE, ACTION #54512 WOULD HAVE BEEN WON. BUT ANY ACTION BEFORE THE COURT WOULD HAVE BEEN A FARCE WITHOUT ACCESS TO THE RULES OF COURT, EVIDENCE, AND PRETRIAL PROCEDURES. BASED UPON CITY RECORDS AS ATTACHED AND MADE A PART OF ACTION #58025 WHICH MY LAWYERS NEVER PRESENTED TO THE COURT BY CROSS-EXAMINATION OF CITY EMPLOYEES; NEVER MENTIONED NOR ARGUED PERMANENT TRESPASS OF CONSTRUCTED WING-WALLS WITH CONCEALED APRON OBVIOUS TO ALL BY VISUAL INSPECTION BY THE COURT OF THE PROPERTY.[79] THIS COURT HAS AGAIN RECENTLY STATED THAT PERMANENT TRESPASS, NO MATTER HOW SMALL, IS A 'TAKING OF PROPERTY'.[80]

79. 3 CIV 14495 R.T:26-28, 15:24-26,17, 20:17-20; 395:1-8, 398:12-25, 400:13-17, 383, 389:14-28; APP-C1, INFRA pp 91a-94a

80. LORETTO V TELEPROMPTER MANHATTAN CATV CORP. 82 DAILY JOURNAL D.A.R. 1865(1982)

ACTION #54512 IS STILL PENDING ALTHO DEFENSE COUNSEL JOLLY IN REPLY TO JUDGE BOOCHEVER AT ORAL HEARING STATED THAT MY ACTION WAS VALID, HAD BEEN TIMELY FILED, BUT THEY HAD DELAYED MOTION FOR DISMISSAL.

ACTIONS #54513 WAS NOT BARRED BY ACTTION #42361 AS RES JUDICATA AND COLLATERAL ESTOPPEL. #54513 STATED INVERSE CONDEMNATION FOR CULVERT AS PLANNED, DESIGNED, CAUSED DAMAGE TO MY PROPERTY.[81] INVERSE CONDEMNATION IS BASED UPON THE CAUSATION AND NOT A CONCURRING CITY FAULT OR NEGLIGENCE.

#54513 SHOULD HAVE BEEN AMENDED TO INCLUDE AUGUST 14, 1976 FLOODING. BUT FLOODING OCCURRED SATURDAY, MONDAY, CITY OF REDDING DEMURRERS HEARING WAS SCHEDULED. ACCESS TO THE LAW LIBRARY WAS AGAIN REFUSED ME BEFORE COURT. I NOTIFIED THE COURT, BUT WAS UNABLE STATE PROPER MOTION FOR CONTINUANCE, TO RESEARCH LAW TO DISMISS

81. CITED HOLTZ V SUP.CT.(1970) 3CAL3d 302 305, UPHELD IN MARIN V SAN RAPHAEL (1980) 111 CA3d 591,595, 105 CAL RPTR 750.

JUDGMENT OF FIRST TWO SPLIT DEFENDANTS, AS RES JUDICATA AND COLLATERAL ESTOPPEL. BUT BEFORE AN ACTION IS DISMISSED FOR RES JUDICATA, A FAIR ADVERSARY HEARING MUST ASSUMED TO HAVE BEEN RECEIVED[82].

THEREFORE, BOTH JUDGMENTS IN #54513 AND #58025 ARE NULL AND VOID.

2. A PROPERTY INTEREST RIGHT OF LAW LIBRARY USE WAS ACQUIRED BY ME. NOT ONLY BY FEE PAID, BUT BY IMPLIED CONTRACT AND CONSTITUTIONAL RIGHT OF EXPECTATION AS A PART OF EQUAL PROTECTION OF THE LAW,SUPRA. BUT THE COURT OF APPEALS STATED I DIDN'T ACQUIRE SUCH RIGHT BY FEE OF $4.00 PAID[83]. CALIFORNIA LAW REQUIRES A FEE PAID WITHIN THE FILING FEE, AS $3.00 JUDGES' RETIREMENT, $10.00 FOR COURT REPORTER, SET ASIDE FROM COUNTY FUNDS[83]. NOR CAN ONE CLASS OF PERSONS BE TREATED DIFFERENTLY THAN

82.PET. 78-1611,P67 FN 108, LOGAN V ZIMMERMAN SUPRA, BODIE V CONNETTICUTT, 401 US 371,374, 177-379 (1970)

83. APP-A, INFRA, P 4a, APP-A1, INFRA,87a

84. BD. OF LAW LIBRARY TRUSTEES V LOWRY 67 CA2d 480, BICENT.HIST.AMER.LAW LIBRARY

ANOTHER[86]. CONTROL OF ACCESS TO THE LAW LIBRARIES CONTROL NON-LAWYER LITIGANTS IN COURT BY LAWYERS AND GOVERNMENT OFFICIALS. PEOPLE ARE THEREFORE PLACED INTO A 'PRISON-WITHOUT-WALLS'. EITHER DRIVE 160 MILES TO A LAW LIBRARY OR GO WITHOUT. THUS BEING FORCED TO SEEK LEGAL COUNSEL EVEN ON THE MOST MINOR LEGAL INFORMATION.[85]

THE DISTRICT COURT STATES IT IS ALL-RIGHT TO DISCRIMINATE BETWEEN LAWYERS AND NON-LAWYERS; THAT SUCH A BURDEN AS A HUMAN BEING IS ONE THAT I MUST BEAR; THAT IF YOU HAVE BECOME UNLAWFUL AND A CRIMINAL, THEN YOU HAVE YOUR FUNDAMENTAL CONSTITUTIONAL RIGHTS AND CIVIL LIBERTIES;[87]

IES, LLJ, VOL 69;528,536,542-544;VOL 67:325

85. STATEMENT OF THE CASE

86. BD.OF.ED.ISLAND TREE UNION V PICO,80-2043, 82 DAILY JOURNAL D.A.R.1741(1982) JAGO V VAN CUREN,102 S CT 31,33-35(1981) BOARD OF REGENTS V ROTH 404 US 909;ESTES-V TEXAS 381 US 532, 540, 14 L ED2d (1965) LOGAN V ZIMMERMAN BRUSH, 102 S CT 1148(1982) IN RE MURCHISON 99 L ED 942, 75 S Ct 623 (1955)SOUTHEASTERN PROMOTIONS LTD V CONRAD 420 US 546, 43 L ED 2d 448, 95 S CT 1239;

87. WIDMAR ET AL V VINCENT ET AL (1981) 102 S CT 269 . 87. S79-73MLS R.T:30-33.

IN EFFECT THE DISTRICT COURT STATES THAT IT IS DISCRIMINATORY BETWEEN THOSE REPRESENTED BY LAWYERS AND THOSE IN COURT IN PRO PER, SUPRA, AND THAT IT IS RATIONALLY RELATED TO LAWYERS' PRIVILEGE. THAT IS UNCONSTITUTIONAL AND DENIAL OF DUE PROCESS OF LAW, EQUAL PROTECTION OF THE LAW.

THEREFORE, I NOT ONLY HAD A PROPERTY INTEREST RIGHT IN FREEDOM TO SPEAK, WRITE, EXPRESS MY OPINIONS, BUT ALSO, IN DUE PROCESS OF LAW, EQUAL PROTECTION OF THE LAW, AND SUCH DENIAL UNDER THE FIRST, FIFTH, FOURTEENTH AMENDMENTS HAD MADE ME SUFFER IRREPARABLE HARM UNDER THE FOURTEENTH AMENDMENT OF CRUEL AND UNUSUAL PUNISHMENT.

BECAUSE OF DENIAL OF THESE PROPERTY INTEREST RIGHTS AND THE PROPERTY INTEREST RIGHT UNDER CALIFORNIA LAW, SUPRA, A CAUSE OF ACTION WAS STATED UNDER §1983[88].

88. LOGAN V ZIMMERMAN BRUSH CO; JAGO V VAN CUREN; MILLS V HABLUETZEL; BROWN V HARTLAGE; DENNIS V SPARKS; LANDMARK COMMUNICATIONS INC. V COMMONWEALTH OF VIRGINIA; PERRY V SINDERMANN; MONELL V DEPT. OF SOC. SUPRA, SUPRA CITATIONS.

BOTH THE THIRTEENTH AMENDMENT AND §1985(2)(3) ARE ACTIONABLE UNDER THE FOURTEENTH AMENDMENT[89].

A SIMPLE RULE POSTED ON THE LAW LIBBRARY DOOR ON THE THIRD FLOOR OF THE COURTHOUSE, SUPRA, WHICH, IF GONE UNCHALLENGED, MAY HAVE BECOME ONE OF THE MOST INVIDIOUS INVISIBLE, EXTENSIVE 'CONTROL-POWERS' WITHIN A GOVERNMENT. THE RULE, AS ALLEGED, ENFORCED OUTSIDE THEIR COURTROOMS, THE JUDGES THEN RE-ENTERED THEIR COURTROOMS WITHIN THEIR JUDICIAL IMMUNITY, DETERMINED THE ISSUES BEFORE THE COURT, SUPRA AND IN EFFECT DETERMINED WHO DID OR DID NOT RECEIVE JUSTICE.

NON-LAWYER RESIDENTS AND LITIGANTS IN PRO PER WERE DENIED ACCESS TO LAW BOOKS BEFORE SMALL CLAIMS, JUSTICE AND SUPERIOR COURTS, BEFORE 3 PM UNTIL JANUARY 1978--- A FULL THREE (3) YEARS, THEN FOR ANOTHER

89. APP-F, INFRA, P 26a;
90. GRIFFIN V BRECKENRIDGE,(1971)403 US 88.

TWO (2) YEARS UNTIL FEBRUARY 14, 1980.

I DID NOT HAVE A LAWYER. BUT JUDGE EATON HAD TOLD ME TO GO FIND A LAWYER[91].

A LAWYER AND JUDGE'S PREFERENTIAL TREATMENT AS TO CHECKING OUT BOOKS WAS ALSO A PRIVILEGE OR WEAPON WHICH MAY OR MAY NOT BE'EXCHANGED'FOR OTHER PRIVILEGES TO NEIGHBORS OR FRIENDS, OR OPPOSITION OR ENIMIES.

ALSO, LAWYERS' SERVICE MUST BE PAID FOR, BY CASH OR BY EXTRA WORK AFTER REGULAR WORK DAY. TO BE FORCED TO PAY FOR A LAWYER'S COUNSEL ON THE MOST MINOR LAW INFORMATION IS INVOLUNTARY SERVITUDE.

SUCH INVIDIOUS, INTANGIBLE, INDEFINABLE, 'POWER-CONTROL' BY CLASS DISCRIMINATION MAY EXIST WITHOUT REGARD TO RACE, COLOR CREED OR RELIGION.

THEREFORE, I STATE A CAUSE DIRECTLY UNDER THE THIRTEENTH AMENDMENT[92].

I ALSO STATE A CAUSE OF ACTION UNDER

91. LTR OF COMP/CLAIM ATTACH TO COMPLAINT
92. I COULD NOT FIND CITATION ON POINT.

UNDER 42 USC §1985(2)(3), CONSPIRACY TO INTERFERE WITH MY CIVIL RIGHTS.

THROUGHOUT MY 2ND AMENDED COMPLAINT WITH ATTACHMENTS, BRIEFS AND ARGUMENT HEREIN I HAVE SUPPORTED ALLEGED CONSPIRACY TO DISCRIMINATE BETWEEN CLASSES, LAWYERS AND NON-LAWYERS, AND THOSE REPRESENTED BY LAWYERS, AND SUPPORTED SUCH ALLEGATIONS SPECIFICALLY AS REQUIRED OF §1985(2) SUPRA.

BUT ANOTHER REASON BEHIND THE RULE OTHER THAN SECURITY OF BOOKS KEEP NON-LAWYER LITIGANTS IN PRO PER OUT OF COURT, THUS REDUCING THOSE IN COURT, ELIMINATING THE COMPLAINTS AGAINST THE SUPERVISORS, AND MY COMPLAINT AGAINST THE CITY, CITY OFFICIALS, CITY AND COUNTY PLANNING COMMISSIONER ADJOINING NEIGHBORS AND MY LEGAL MAL-PRACTICE ACTION, THUS, CONTINUING TO CONCEAL PREFERENTIAL TREATMENT AND VIOLATION OF CITY ORD. §94493, 93, ALLEG. §54512,54513,58025,

WHICH MAY HAVE TRIGGERED AN INQUIRY INTO OTHER PREFERENTIAL TREATMENT UNKNOWN AT THAT TIME.

THE NON-LAWYERS MAY BE FORCED INTO LAW OFFICES, BENEFITING ALL THE MEMBERS OF THE TRUSTEES. FOR AS STATED, IF I WAS UNABLE TO GET TO THE LAW LIBRARY PROCEDURES IT IS REASONABLE OTHERS LIKE MYSELF WOULD ERROR AND LOSE THE CASE, OR RATHER, SEEK LEGAL COUNSEL, AND, PAY THE PRICE.

THE COURTS HAVE STATED THAT CONSPIRACY IS GENERALLY WITHIN THE KNOWLEDGE OF DEFENDANTS, AND SELDOM IN DOCUMENTS?[94] AS LONG AS I AM KEPT OUT OF COURT THE CONSPIRACY MAY REMAIN CONCEALED.

IT IS ALSO REASONABLE TO ASSUME THAT OTHERS AND DEFENDANTS' LAWYERS MAY HAVE

ATTENDED TRUSTEES' MEETINGS AND VOICED

94. GRIFFIN V BRECKENRIDGE, SUPRA FN 80 AMERICAN TOBACCO CO V UNITED STATES 328 US 781, 66 S CT1125, 90 L ED 1575, FOLLOWED IN INDUSTRIAL BLDG. MATERIALS INC V INTERCHEMICAL CORP 437 F2d 1336(9TH 1970) CROW V LUCAS, 595 F2d 985 (1975)

THEIR SUPPORT OF THE RULE. FURTHER, IT IS REASONABLE TO BELIEVE THAT ALLEGATIONS MAY BE STATED AGAINST THOSE DEFENDANTS WITHIN ACTION #54513 AND #58025, THEREFORE 'DOES' ALLOWED BY CALIFORNIA LAW WERE TO BE NAMED BY AMENDMENT AS THEY KNEW OR SHOULD HAVE KNOWN THAT FOR DISCOVERY OF THEIR CONSPIRACY THEY WOULD HAVE BEEN NAMED AND THEREFORE NOT PREJUDICED[95].

AS SECTION 1985(2)(3) DOES NOT REQUIRE TO BE UNDER COLOR OF LAW, BUT STANDS ALONE, THE ALLEGED CONSPIRACY SHOULD NOT HAVE BEEN DISMISSED AND DOES STATE A CAUSE OF ACTION UNDER 42 U.S.C. 1985(2)(3), THIRTEENTH AMENDMENT AND UNDER THE FOURTEENTH AMENDMENT[96], THEREBY UNDER §1983.

UNDER SECTION §1986[97] ALSO SHOULD NOT HAVE BEEN TERMED 'FRIVOLOUS' AND DISMISSED. THERE IS REASON TO BELIEVE THAT THERE WAS A CONSPIRACY AS ALLEGED §1985(2)(3)

95. S79-73-MLS R.T.:29-32
96. APP-F, INFRA, 25a; APP-Z, INFRA, p77a
97. APP-F, INFRA, P 80a

THAT OTHERS DID KNOW ABOUT IT AND DID NOTHING AND IN OTHER INSTANCES, SUPPORTED THE CONSPIRACY AS ALLEGED,SUPRA, AND THEREFORE ARE ALSO LIABLE TO ME FOR DAMAGES AS STATED IN §1985(3) SUPRA. AND MAY BE NAMED AS REQUESTED IN 2ND AMEND.COMPLAINT AS NON- GOVERNMENT OFFICIALS AS LAWYER DEFENDANTS NAMED HEREIN AND AS OTHERS BECOME KNOWN, SUPRA.

ALLEGED ACTS UNDER COLOR OF LAW §1983, TAKING OF PROPERTY, OF PRIOR RESTRAINTS OF FIRST, FIFTH, THIRTEENTH AND FOURTEENTH AMENDMENTS, OF CONSPIRACY TO FORCE ME OUT OF COURT AS A NON-LAWYER LITIGANT IN COURT IN PRO PER, AND OF OTHERS COOPERATING IN THE CONSPIRACY UNDER §1985(2)(3), §1986 ALL STATE CAUSES OF ACTION AND MY ACTION SHOULD NOT HAVE BEEN DISMISSED.

DAMAGES NOT PROPERLY STATED MAY HAVE BEEN AMENDED AS REQUESTED, SUPRA, AND WAS NO REASON TO DISMISS MY COMPLAINT[98].

98. MOORES FED.PRAC. RULE 15 & SUPPLEMENT.

II.

DO CALIFORNIA SHASTA COUNTY SUPERIOR COURT JUDGES HAVE JUDICIAL IMMUNITY OUTSIDE THEIR COURTROOMS WITH OTHERS ENACT A RULE, THEN PROCEED TO ENFORCE AND INSTRUCT PERSONNEL TO ENFORCE THE RULE,ALLOW ME ONLY 2 HOURS PER DAY AS A NON-LAWYER LITIGANT IN COURT IN PROPRIA PERSONNA TO RESEARCH LAW, DENY ME ACCESS DURING REGULAR BUSINESS HOURS, BEFORE, DURING AND AFTER COURT UNTIL 3 PM, THEN RE-ENTER THEIR COURTROOMS AND DETERMINE THE LAW IN MY ACTIONS, KNOWING IN ADVANCE PRIOR RESTRAINTS HAD BEEN PLACED ON MY LIBERTIES AND FREEDOMS,AS STATED,UNDER THE UNITED STATES CONSTITUTION?

A.

UNDER CALIFORNIA LAW[99] THE CALIFORNIA LEGISLATURE INTENDED THAT ONE SUPERIOR COURT JUDGE AND CHAIRMAN SUPERVISOR, AND LAWYERS AS APPOINTED WOULD DETERMINE THE

99. APP-A1, INFRA, 85a

OPERATIONS OF THE LAW LIBRARY BY:

"---AN AFFIRMATIVE VOTE OF A MAJORITY OF MEMBERS IS REQUIRED TO EXERCISE THE POWERS OF THE BOARD."($6304 APP-X,infra p80a) AND IT MAY BE ASSUMED JUDGES ROTATED LAW LIBRARY SUPERVISION. THEREFORE, THE JUDGES WERE OUTSIDE THEIR JUDICIAL IMMUNTIES, THEIR ACTS WERE IN COMBINATION WITH OTHERS IN A MEETING[100], THEIR ACTS WERE NOT A PART OF THEIR OFFICIAL JUDICIAL DUTIES, THEREFORE THEY DO NOT HAVE JUDICIAL IMMUNITIES.

THE JUDGES AND TRUSTEES DEFENDANTS AS NAMED, MAY HAVE HAD QUALIFIED IMMUNITIES IF THEIR ACTS WERE DONE IN SINCERE BELIEF THEY WERE LAWFUL. BUT THE JUDGES KNEW OR SHOULD HAVE KNOWN THEIR ACTS OF INITIATING THE RULE, ENFORCING THE RULE, WAS UN-

LAWFUL, UNCONSTITUTIONAL, DEPRIVED ONE

100. APP-A1, INFRA, P94a DENNIS V SPARKS, SCHEUER V RHODES, WOOD V STRICKLAND, SUPREME VIEWS ON CIVIL LIABILITY OF JUDGES 55 L ED 2d 850, OWEN V CITY OF INDEPEND MONNEL V NEW YORK CITY DEPT OF SOC.SER. SUPRA CITATIONS

CLASS OF PERSON EQUAL PROTECTION OF THE LAW, PLACED PRIOR RESTRICTIONS AND RESTRAINTS UPON MY CONSTITUTIONAL LIBERTIES.

BUT THE ENFORCEMENT OF THE RULE WAS NOT ONE SIMPLE ACT; BUT A SERIES OF ACTS OVER 5 YEARS, SUPRA. I WAS REFUSED EQUAL LAW LIBRARY ACCESS FOR ABOUT 5 YEARS!

THE JUDGES INTERPRETATION OF THE LAW WITHIN THE COUNTY WAS SUPREME. THEREFORE, THEY KNEW OR SHOULD HAVE KNOWN, AND MAY BE FORESEEABLE, THAT I WOULD ERROR IN MY PROCEDURES, MAY LOSE MY CASE, AND JUDGMENT WOULD BE FILED, --- CASE LAW IS FILLED WITH LAWYER ERRORS---AND, AS ALLEGED, THE CITY AND COUNTY PREFERENTIAL TREATMENT TO A FEW AS ALLEGED IN #58025,AND MAY BE DISCLOSED IN #54512, #54513, WOULD REMAIN CONCEALED, AS ALLEGED.

THE JUDGES WERE EXPERIENCED IN INTERPRETING THE LAW. THEREFORE THEY SHOULD NOT HAVE VOTED A RULE THAT WAS UNCONSTI-

UNCONSTITUTIONAL ON IT'S FACE.

JUDGE CLYDE SMALL[102] WITH LAURENCE CARR, LAWYER, HENRY KEEFER, SUPERVISOR CHAIRPERSON, AL CUNNINGHAM, LAWYER INITIATED THE RULE IN 1974[103]. THEREAFTER JUDGE SMALL, FORMER CITY OF REDDING DEFENSE COUNSEL, IN ACTION #54512 ACTED WITHOUT JURISDICTION.

JUDGE RICHARD B. EATON[102], REPLIED TO SUPERVISORS INQUIRY REGARDING LOCKMAN, SUPRA, WITH LAURENCE CARR, LAWYER, SUPERVISOR BESSIE SANDERS CHAIRPERSON, AND OTHER LAWYER TRUSTEES, VOTED TO UPHOLD PRIOR TRUSTEE DECISION[104].

JUDGE RICHARD B. ABBE[102], SUBMITTED MY LETTER TO TRUSTEES, SUPRA, THEN RE-ENTERED COURT TO DETERMINE ISSUES IN ALL MY ACTIONS #54512, #54513, #58025, SUPRA.

102. ON MY INFORM. AND BELIEF: JUDGE CLYDE SMALL, APPT. MCH. 20, 1974, RESIGNED JULY 1979; JUDGE RICHARD B. EATON, APPT. OCT 1, 1951, RETIRED END OF 1976; JUDGE RICHARD W. ABBE, APPT. FEB. 1, 1965, PRESENT; JUDGE WILLIAM PHELPS ELECTED JAN. 3, 1977, NOT 1982 CANDIDATE; JUDGE JOSEPH REDMON, LOWER COURT JUDGE, APPT. SEPT 1979, PRES

103. APP-J1, INFRA, 120a

KNEW IN ADVANCE OF COURT HEARING THAT I HAD BEEN RESTRICTED BY PRIOR RESTRAINTS, BUT DETERMINED THE ISSUES BEFORE THE COURT; CONTINUED TO INSTRUCT PERSONNEL TO REFUSE ME ACCESS TO LAW LIBRARY,SUPRA.

JUDGE WILLIAM PHELPS[102], VOICED HIS DISAPPROVAL OF THE RULE, BUT HIS SECRETARY DESKED IN THE LAW LIBRARY, CONTINUED TO DENY ME ACCESS TO THE LAW LIBRARY IN THE MORNINGS.

DURING THIS TIME LAW LIBRARY MEETING MINUTES WERE NO LONGER PLACED IN THE FOLDER OTHER THAN LAWYER EX OFFICIO TRUSTEES, WHICH INCLUDED DEFENDANTS LAURENCE CARR TODD FINEBERG[105].

SHASTA COUNTY SUPERVISORS ROTATED AS CHAIRPERSONS AND THEREFORE AS TRUSTEES. THEREFORE EACH OF THE SUPERVISORS FROM 1974 THROUGH TO 1980 WERE TRUSTEES.

105. ON MY INFORMATION AND BELIEF LAWYERS APPT. EX OFFICIO TRUSTEES WERE: CLYDE SMALL 1972-1974 THEN APPT. JUDGE; LAURENCE CARR 1972 -1979 RESIGNED; ROBERT SRITE 1972-1976 (DECEASED) TODD FINEBERG 1976-1982;

DEFENDANT JUDGES, SUPERVISORS, EX OFFICIO LAWYER TRUSTEES' ACTS WERE DISCRETIONARY, WILFULL, ARBITRARY AND MALICIOUS, AND THEY SHOULD NOT HAVE JUDICIAL NOR QUALIFIED IMMUNITIES.[106]

DEFENDANT LAWYERS NAMED WHO MAY HAVE ATTENDED TRUSTEES MEETINGS, OR OTHERWISE AT OTHER TIMES VOICED THEIR APPROVAL OF THE RULE, AND THEREBY DENIED ME EQUAL PROTECTION OF LAW, AND ENTERED THE CONSPIRACY THEREBY SHOULD NOT BE DISMISSED.[107]

MY LETTER OF CLAIM AND COMPLAINT PRESENTED TO THE SUPERVISORS MEETING AND THEREAFTER REJECTED BY THEM AND MADE A PART OF MY COMPLAINT AS THOUGH FULLY SET OUT THEREIN[108] STATES A CLAIM AGAINST THE SHASTA COUNTY AS DEFENDANTS.[109]

106. DENNIS V SPARKS, (1980, WOOD V STRICKLAND, (1975), SCHEUER V RHODES, (1974) supra
107. DENNIS V SPARKS, WOOD V STRICKLAND, SCHEURER V RHODES, SUPRA,
108. 879-73MLA 2nd AMENDED COMPLAINT ATTACHMENTS EX.REC.VOL 1;11, 18-30.
109. OWEN V CITY OF INDEPENDENCE, MISSOURI 445 US 622; MONNEL V NEW YORK CITY DEPT SOC. SERV; 436 US 658

APPENDIX INDEX

NUMBER	PAGE
APP-A, US C/A MEMORANDUM----------	1a
APP-B, US C/A ORDER----------	14a
APP-C, US C/A ORDER----------	15a
APP-D, US DIST/COURT MEMO/ORDER----	16a
APP-E, PET FOR CERT----------	22a
APP-F, US CONST. AMENDMENTS--------	25a
APP-G, CALIF C/A #3 CIV 16263------	27a
APP-H, CALIF C/A DENY REHEAR-------	32a
APP-I, CALIF C/A 3 CIV 17535-------	33a
APP-J, CALIF SUP/C ORDER DISCHARGE-	41a
APP-K, CIBULA CIBULA LETTER------	43a
APP-L, CALIF.SUP/CT #42361 MEMO----	45a
APP-M, CALIF. SUP/CT #42361 FF/CL--	49a
APP-N, CALIF. SUP/CT #42361 ORDER--	53a
APP-O, CALIF. SUP/CT ORDER---------	56a
APP-P, CALIF. C/A 3rd 3CIV 14495---	57a
APP-Q, CALIF. RUL/ DEMUR/ #54513---	62a
APP-R, CALIF. SUP/CT RUL.DEM.#54513-	63a
APP-S, CALIF.SUP/CT. ORDER #58025----	66a

APP-T, CALIF. C/A 3 CIV 16644---------68a

APP-U, CLK. CALIF. C/A 3CIV 16668-----69a

APP-V, CALIF. C/A 3 CIV 16668---------71a

APP-W, CALIF C/A 3 CIV 16668----------72a

APP-X, CALIF. SUP/CT #54512----------73a

APP-Y, CALIF. SUP/CT #54512---------- 75a

APP-Z, US-42 U.S.C.§§1983,et seq------77a

APP-A1, CALIF. BUS.PRO.CODE §§6301 et-85a

APP-BL, CALIF CIV CODE §832----------95a

APP-C1, CALIF CODE CIV PRO §583-------98a

APP-D1, LETTER OF COMPLAINT----------99a

APP-D1, LETTER OF COMPLAINT----------101a

APP-E1, JUDGE EATON'S LETTER --------107a

APP-F1, LTR. RE LAW LIBRARY----------109a

APP-G1, LTR. RE; LAW LIBRARY---------114a

APP-H1, LTR. RE: LAW LIBRARY---------115a

APP-I1, CITY/RED/ORD. 944------------116a

APP-J1, LAW LIBRARY LETTER----------120a

APP-K1, LTRS. TO CALIF. SUP/CT-------122a

APP-L1, LTR. TO CALIF. SUP/CT JUDGES-125a

APP-M1, LTR. TO CALIF. JUDGE ABBE----127a

APP-N1, CITY/RED. PLAN.COM. MTG------130a

APP-O1, MOTION TO QUASH SERV.--------136a

APP-P1, RPTRS. TR. Nov.1, 1976-------141a

APP-Q1, SMALL'S CT.------------------146a

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

(FILED MAR 31, 1982-PHILLIP B. WINBERRY
CLERK, U.S. COURT OF APPEALS

MINTA H. REICHEL,	) NO. 80-4328
PLAINTIFF-APPELLANT	)
	) MEMORANDUM
v.	)
CALIFORNIA SHASTA COUNTY SUPERIOR COURT JUDGES, ET AL, DEFENDANTS-APPELLEES.	)

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA -- THE HONORABLE MILTON L. SCHWARTZ, PRESIDING---ARGUED AND

BEFORE: WRIGHT, HUG and BOOCHEVER, CIRCUIT JUDGES

REICHEL COMPLAINED THAT HER CIVIL RIGHTS WERE VIOLATED BY A COUNTY LAW LIBRARY RULE THAT LIMITED DAILY PUBLIC ACCESS TO TWO HOURS. HER COMPLAINT WAS DISMISSED FOR FAILURE TO STATE A CAUSE OF ACTION.

WE AFFIRM.

(SEE DISSENTING OPINION BY BOOCHEVER P

FACTUAL BACKGROUND

THE LIBRARY WAS ORIGINALLY OPEN TO THE PUBLIC DURING COUNTY BUSINESS HOURS. LOSS OF MATERIALS CAUSED THE COUNTY TO LIMIT PUBLIC ACCESS TO TWO HOURS DAILY IN OCTOBER L974. WHEN A LIBRARIAN BECAME AVAILABLE IN JANUARY 1978, PUBLIC ACCESS WAS INCREASED TO FOUR HOURS PER DAY. PRESENTLY THE LIBRARY IS AGAIN OPEN TO THE PUBLIC DURING COUNTY BUSINESS HOURS.

WHILE ACCESS WAS LIMITED, REICHEL REQUESTED USE OF THE LIBRARY AFTER BUSINESS HOURS TO PREPARE FOR THREE LAWSUITS SHE HAD INITIATED IN PROPRIA PERSONA IN STATE COURT. IN TWO OF THESE ACTIONS SHE ATTEMPTED TO REASSERT INVERSE CONDEMNATION CLAIMS SHE HAD UNSUCCESSFULLY BROUGHT EARLIER WHILE REPRESENTED BY COUNSEL. IN THE THIRD, SHE SUED THE ATTORNEY WHO REPRESENTED HER IN THE PRIOR ACTIONS FOR MALPRACTICE. THE STATE TRIAL AND APPELLATE COURTS HELD THE FIRST TWO ACTIONS BARRED BY RES JUDICATA AND COLLAT-

ERAL ESTOPPEL.

REICHEL COMPLAINED TO THE DISTRICT COURT THAT THE COUNTY'S RESTRICTIONS ON PUBLIC USE OF THE LIBRARY (1) DENIED HER A FAIR ADVERSARIAL HEARING BECAUSE SHE WAS UNABLE TO PREPARE THOROUGHLY; (2)DISCRIMINATED AGAINST HER; AND (3) INTERFERED WITH A PROPERTY RIGHT BECAUSE SHE HAD PAID A $4.00 LAW LIBRARY FEE PLUS A FILING FEE. THIS ACTION IS AGAINST COUNTY JUDGES, CLAIMED TO BE EX OFFICIO MEMBERS OF THE LIBRARY BOARD, ATTORNEYS WHO OPPOSED HER IN HER STATE SUITS, AND THE LIBRARY BOARD OF DIRECTORS. SHE SEEKS DAMAGES EQUAL TO THOSE PRAYED FOR IN HER UNSUCCESSFUL STATE SUITS PLUS AN ATTORNEY'S FEE.

THE DISTRICT COURT DISMISSED WITH PREJUDICE FOR FAILURE TO STATE A CLAIM FOR WHICH RELIEF CAN BE GRANTED.

ANALYSIS

A COMPLAINT SHOULD NOT BE DISMISSED UNLESS IT APPEARS BEYOND DOUBT THAT THE PLAINTIFF CAN PROVE NO SET OF FACTS IN SUPPORT OF THE

THAT WOULD ENTITLE THE PLAINTIFF TO RELIEF CONLEY V. GIBSON, 355 U.S. 41, 45-46 (1957). WITH THAT STANDARD IN MIND, WE REVIEW HERE REICHEL's CLAIMS UNDER 42 U.S.C. §1983. HER CLAIMS UNDER OTHER PROVISIONS ARE FRIVOLOUS.

TO STATE A CLAIM UNDER SECTION 1983, IT MUST BE ALLEGED THAT THE DEFENDANTS HAVE DEPRIVED THE PLAINTIFF OF A CONSTITUTIONAL RIGHT. THE CLAIM REICHEL ASSERTS DOES NOT INVOLVE A DEPRIVATION OF CONSTITUTIONAL RIGHTS. THE FACT THAT $4.00 OF THE FILING FEE GOES TO SUPPORT THE LAW LIBRARY DOES NOT GIVE A VESTED PROPERTY INTEREST IN THE LIBRARY TO ALL PLAINTIFFS: SHE THEREFORE WAS NOT DEPRIVED OF A PROPERTY RIGHT.

FURTHERMORE, THERE WAS NO VIOLATION OF REICHEL's DUE PROCESS RIGHTS. SHE RELIED UPON BOUNDS V. SMITH , 430 U.S. 817 (1977) WHEREIN THE SUPREME COURT HELD THAT A PRISONER HAS A FUNDAMENTAL RIGHT OF ACCESS TO THE COURTS, AND THAT THAT RIGHT REQUIRES

PRISON AUTHORITIES TO PROVIDE PRISONERS WITH ADEQUATE LAW LIBRARIES, OR ASSISTANCE IN THE PREPARATION OF LEGAL FORMS FROM SOME ONE WITH LEGAL TRAINING. THAT RIGHT IS PREMISED ON THE DUE PROCESS CLAUSE AND ASSURES INMATES OF THE OPPORTUNITY TO CHALLENGE VIOLATIONS OF THEIR CONSTITUTIONAL RIGHTS AND UNLAWFUL CONVICTIONS. STORSETH V SPELLMAN, 654 F.2d 1349 (9th Cir. 1981) BECAUSE REICHEL's CLAIMS ARE CIVIL, AND DO NOT INVOLVE FUNDAMENTAL RIGHTS AND SHE IS NOT INCARCERATED, HER SITUATION DIFFERS FROM THAT OF THE PRISONERS IN BOUNDS AND DOES NOT REQUIRE THE SAME ACCESS TO A LAW LIBRARY. THE RIGHTS OF ORDINARY CIVIL LITIGANTS MAY IN SOME CASES BE LIMITED OR CONDITIONED. ORTWEIN V SCHWAB , 410 U.S. 656 (1973) UNITED STATES V KRAS 409 U.S. 434 (1973) IN BODDIE V CONNECTICUT, 401 U.S. 371 (1971) AN INDIGENT WAS DENIED ACCESS TO STATE CO COURT, AND THUS WAS UNABLE TO OBTAIN A DIVORCE, BECAUSE SHE COULD NOT PAY REQUIRED FILING FEES. THE COURT HELD THE STATE HAD

VIOLATED BODDIE'S DUE PROCESS RIGHTS BY DENYING ACCESS TO THE COURTS ON THIS BASIS. HOWEVER. IN ORTWEIN AND KRAS THE COURT DIS_ TINGUISHED BODDIE, HOLDING THAT WHERE THE CIVIL LITIGANT SEEKS ACCESS TO THE COURTS TO VINDICATE A FUNDAMENTAL RIGHTS (SUCH AS THE MARRIAGE RELATIONSHIP IMPLICATED IN BODDIE,) LIMITATION OF ACCESS VIOLATES DUE PROCESS. HOWEVER, WHERE THE CIVIL ACTION DOES NOT INVOLVE FUNDAMENTAL RIGHTS, ACCESS MAY BE CONDITIONED OR LIMITED BY MEANS WHICH ARE REASONABLY RELATED TO A VALID STATE OBJECTIVE. ORTWEIN, 410 U.S. AT 656 (APPEAL OF WELFARE BENEFITS DECISION): KRAS,409 U.S. AT 444-45 (FILING OF BANKRUPTCY PETITION).

REICHEL's civil actions for property damAGE AND AMLPRACTICE DID NOT INVOLVE HER FUNDAMENTAL RIGHTS. THE COUNTY'S LIMITATION ON A NON-LAWYER'S ACCESS TO THE LIBRARY WAS RATIONALLY RELATED TO A VALID OBJECTIVE, PREVENTING THE LOSS OF BOOKS. THIS CONCLUSION IS SUPPORTED BY WRIGHT V LANE COUNTY COMMISSIONERS, 459 F. 2d 1021 (9th CIR.1972).

WHERE A LAW LIBRARY POLICY DISCRIMINATED IN FAVOR OF ATTORNEYS.WE HELD THAT "THE LITIGANT ATTORNEY CLASSIFICATION AND THE HOURS SELECTED BOTH POSSESS A RATIONAL RELATIONSHIP TO THE ACHIEVEMENT OF THE GOAL OF SECURITY." 459 F2d at 1023. THE FACT THAT ACCESS TO ALTERNATIVE RESOURCES WAS MORE AVAILABLE TO WRIGHT THAN TO REICHEL IS NOT A SUFFICIENT DISTINCTION TO COMPEL A DIFFERENT RESULT IN THIS CASE.

WE NOTE THAT IN OUR VIEW IT WOULD BE FAR PREFERABLE TO PERMIT, IN SOME FASHION, PRO SE LITIGANTS THE SAME ACCESS AS ATTORNEYS, BUT WE CANNOT SAY THAT FAILURE TO SO PROVIDE IS IRRATIONAL. REICHEL WAS NOT DENIED ACCESS TO THE COURT IN ANY WAY SIMILAR TO THE PRISONER IN BOUNDS, INASMUCH AS SHE DID HAVE SOME ACCESS TO THE LOCAL LAW LIBRARY AND OTHER LIBRARIES WERE AVAILABLE TO HER. FURTHERMORE, SHE WAS NOT PRECLUDED FROM FILING HER CASE AS IN BODDIE, BUT WAS ONLY INCONVENIENCED IN PREPARING IT.

MOREOVER, WE NOTE THAT NO AMOUNT OF LIBRARY USAGE COULD HAVE RESULTED IN RECOVERY ON HER REASSERTED CLAIMS FOR PORPERTY DAMAGE BECAUSE THEY WERE CLEARLY BARRED BY RES JUDICATA AND COLLATERAL ESTOPPEL. IT WAS ONLY THE MALPRACTICE ACTION THAT WAS NOT CLEARLY FORECLOSED BY PRIOR JUDGMENTS.

THE APPELLANT HAS FAILED TO ALLEGE A CLAIM FOR VIOLATION OF CONSTITUTIONAL RIGHTS COGNIZABLE UNDER SECTION 1983.

THE JUDGMENT IS AFFIRMED.

BOOEVER, J., DISSENTING:

FILED MAR 31 1982 PHILLIP B WINBERRY
CLERK, US COURT OF APPEALS

I RESPECTFULLY DISSENT. I AGREE WITH THE MAJORITY THAT REICHEL HAS NOT ASSERTED A RECOGNIZED FUNDAMENTAL RIGHT TO MEANINGFUL CLAIMS. I AGREE THAT THE APPLICABLE DUE PROCESS STANDARD IN THIS CASE IS WHETHER THE HOURS LIMITATION IS RATIONALLY RELATED TO A VALID STATE OBJECTIVE. THE RATIONAL BASIS STANDARD IS ALSO APPROPRIPRIATE FOR A DETERMINATION OF WHETHER THE CLASSIFICATION BETWEEN LAWYERS AND PRO SE LITIGANTS VIOLATED EQUAL PROTECTION.

THE MAJORITY CORRECTLY OBSERVES THAT A COMPLAINT SHOULD NOT BE DISMISSED UNLESS IT APPREARS BEYOND DOUBT THAT THE PLAINTIFF CAN PROVE NO SET OF FACTS IN SUPPORT OF A CLAIM FOR RELIEF. CONLEY V GIBSON 355 U.S. 41, 45-46 (1957) . REICHEL HAS ALLEGED FACTS WHICH, IF PROVEN, WOULD SHOW THAT THE SHASTA COUNTY LAW LIBRARY'S POLI-

BOOCHEVER, J., DISSENTING:

FILED MAR 31 1982 PHILLIP B. WINBERRY
CLERK, US COURT OF APPEALS

I RESPECTFULLY DISSENT. I AGREE WITH THE MAJORITY THAT REICHEL HAS NOT ASSERTED A RECOGNIZED FUNDAMENTAL RIGHT TO MEANINGFUL ACCESS TO THE COURTS TO PURSUE HER PROPERTY AND MALPRACTICE CLAIMS. I AGREE THAT THE APPLICABLE DUE PROCESS STANDARD IN THIS CASE IS WHETHER THE HOURS LIMITATION IS RATIONALLY RELATED TO A VALID STATE OBJECTIVE. THE RATIONAL BASIS STANDARD IS ALSO APPROPRIATE FOR A DETERMINATION OF WHETHER THE CLASSIFICATION BETWEEN LAWYERS AND PRO SE LITIGANTS VIOLATED EQUAL PROTECTION.

THE MAJORITY CORRECTLY OBSERVES THAT A COMPLAINT SHOULD NOT BE DISMISSED UNLESS IT APPEARS BEYOND DOUBT THAT THE PLAINTIFF CAN PROVE NO SET OF FACTS IN SUPPORT OF A CLAIM FOR RELIEF. CONLEY V.GIBSON, 355 U.S. 41, 45-46 (1957). RE REICHEL HAS ALLEGED FACTS WHICH, IF PROVEN, WOULD SHOW THAT THE SHASTA COUNTY LAW LIBRARY'S POLICY OF EXEMPTING ATTORNEYS BUT NOT PRO SE LITIGANTS FROM THE TWO HOUR PER DAY LIMITATION

CY OF EXEMPTING ATTORNEYS BUT NOT PRO SE LITIGANTS FROM THE TWO HOUR PER DAY LIMITATION ON USE OF THE LIBRARY WAS NOT RATIONALLY RELATED TO PREVENTING THE LOSS OF LIBRARY BOOKS.

ACCORDING TO THE COMPLAINT, THE LIBRARY TRUSTEES IMPLEMENTED A POLICY OF ALLOWING PUBLIC ACCESS TO THE LAW LIBRARY ONLY BETWEEN 3 AND 5PM. LAWYERS WERE PERMITTED ADDITIONAL ACCESS BY OBTAINING AND RETURNA KEY FROM THE JUDGES' SECRETARY. ONLY LAWYERS WERE PERMITTED TO CHECK OUT BOOKS.[1] REICHEL ALLEGES THAT SHE SOUGHT AND WAS REFUSED ADDITIONAL LIBRARY ACCESS DURING THE BUSINESS HOURS. THUS, THE ACCESS SHE

1. REICHEL'S COMPLAINT ALLEGES THAT THE LIBRARY TRUSTEES POSTED THESE RULES:

Law LIBRARY OPEN TO THE PUBLIC 3PM TO 5PM

1. ONLY LAWYERS MAY CHECK OUT BOOKS.
2. CHECK OUT PERIOD IS ONE WEEK.
3. WHEN LIBRARY IS CLOSED, LAWYERS MAY OBTAIN KEY FROM JUDGES' SECRETARY'S OFFICE, RELOCK DOOR WHEN LEAVING, RETURN KEY TO SECRETARY WHO WILL THEN CHECK OUT BOOKS WITHDRAWN BY LAWYERS.

SOUGHT WOULD HAVE BEEN PROVIDED IF THE CHECK OUT PROCEDURE FOR KEYS AND BOOKS APPLIED TO ATTORNEYS HAD BEEN EXTENDED TO PRO SE LITIGANTS. WHILE IT IS NOT OUR FUNCTION TO ADJUDGE THE WISDOM OF LEGISLATIVE ACTS, THE CONSTITUTION REQUIRES THAT CLASSIFICATIONS BETWEEN GROUPS OF PERSONS NOT BE ARBITRARY OR IRRATIONAL. BARRY, CHAIRMAN, RACING AND WAGERING BARRY V BARCHI, 443 U.S. 55, 67-68 (1979)

THE COUNTY HAS ARGUED THAT PERMITTING ATTORNEYS TO USE THE LIBRARY FOR LONGER PERIODS LIMITS THE NUMBER OF PERSONS HAVING ACCESS TO THE LIBRARY TO A KNOWN, DEFINABLE, AND TRACEABLE GROUP. THIS RATIONAL EXPLAINS EXCLUSION OF PRO SE LITIGANTS. PRO SE LITIGANTS HAVE CHARACTERISTICS SIMILAR TO THOSE CHARACTERISTICS OF ATTORNEYS THAT JUSTIFY ALLOWING ADDITIONAL ACCESS. ASIDE FROM PRISONERS, WHO DO NOT HAVE ACCESS TO PUBLIC LIBRARIES,

FEW BRING LAW SUITS IN PROPRIA PERSONA ADDITIONAL ACCESS DURING BUSINESS HOURS COULD BE PROVIDED THROUGH THE KEY CHECK OUT ALREADY IN PLACE FOR ATTORNEYS AND WOULD POSE NO GREATER BURDEN THAN THAT OF ALLOWING ACCESS TO ATTORNEYS. PRO SE LITIGANTS CAN BE AS EASILY TRACED AS ATTORNEYS: THEIR ADDRESSES APPEAR ON COURT DOCUMENTS AND THEY CAN BE EXPECTED TO APPEAR IN COURT AT VARIOUS STAGES OF THEIR CASES.

THE COUNTY DID NOT CONTEND IN THIS APPEAL THAT PRO SE LITIGANTS ARE LESS TRUSTWORTHY OR TRACEABLE THAN ATTORNEYS, NOR DID IT ADVANCE ANY REASON WHY THE CHECK OUT PROCEDURE FOR ATTORNEYS COULD NOT BE EXTEDED TO THE SMALL GROUP OF PRO SE LITIGANTS WITH PENDING CASES.

OUR HOLDING IN WRIGHT V LANE COUNTY COMMISSIONERS, 459 F2d 1021 (9th CIR. 1972) IS NOT CONTROLLING. IN WRIGHT WE RULED THAT LIMIT ON PRO SE LITIGANTS' AFTER-HOURS

LIBRARY ACCESS WAS RATIONAL WHERE THE COUTY LAW LIBRARY WAS OPEN TO PRO SE LITIGANTS FOR EIGHT HOURS A DAY AND A NEARBY LAW LIBRARY WAS AVAILABLE WHEN THE COUNTY LIBRARY CLOSED.

WE HELD IN-WRIGHT THAT THE COUNTY'S INTEREST IN LIBRARY SECURITY "MAY BE ACHIEVED BY LIMITING ACCESS TO THE LAW LIBRARY DURING NON BUSINESS HOURS." 459 F2D AT 1023 ((EMPHASIS ADDED) HERE, UNLIKE IN WRIGHT THE HOURS LIMITATION AND ITS EFFECTS ON PRO SE LITIGANTS WERE MUCH MORE SEVERE. THE SHASTA COUNTY LAW LIBRARY WAS THE ONLY PUBLIC LAW LIBRARY IN REDDING, AND THE HOURS LIMITATION LEFT PRO SE LITIGANTS WITH LOCAL ACCESS TO LEGAL MATERIALS FOR ONLY TWO HOURS PER DAY. REICHEL HAS ALLEGED THAT THE HOURS LIMITATION REQUIRED HER TO DRIVE 160 MILES TO SECURE ACCESS TO LEGAL MATERIALS. THE SYSTEM ALLOWED ACCESS TO ATTORNEYS, AND THE COUNTY HAS OF-

NO REASON WHY THAT SAME SYSTEM COULD NOT BE EXTENDED TO THE SMALL GROUP OF PRO SE LITIGANTS.

DEPRIVING PRO SE LITIGANTS OF BUSINES-HOURS ACCESS TO THE LIBRARY WHILE GRANTING IT TO ATTORNEYS UNDER A CHECK IN SYSTEM WAS NOT RATIONALLY RELATED TO ANY VALID PURPOSE. SEE O'CONNOR V MOWBRAY, 504 F.SUPP 139 (D.NEV. 1980). (GREATER RESTRICTION ON AFTER HOURS ACCESS OF PRO SE LITGANTS THAN ON ATTORNEYS SHOWN NOT TO BE RATIONALLY RELATED TO OBJECTIVE OF SECURITY.) REICHEL THEREFORE STATED A CLAIM UNDER 42 U.S.C. § 1983 FOR VIOLATION OF HER EQUAL PROTECTION RIGHTS.

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

(FILED - MAY 27, 1982 - PHILLIP B. WINBERRY CLERK, US COURT OF APPEALS)

MINTA H. REICHEL	)	NO. 80- 4328
PLAINTIFF-APPELLANT,	)	DC NO.
VS	)	S79-73MLS
CALIFORNIA SHASTA	)	
COUNTY SUPERIOR COURT	)	ORDER
DEFENDANTS-APPELLEES.	)	

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT CALIF.

BEFORE: WRIGHT, HUG, and BOOCHEVER, CIRCUIT JUDGES

A MAJORITY OF THE PANEL IN THE ABOVE-ENTITLED CASE HAS VOTED TO DENY THE PETITION FOR REHEARING, AND THE PANEL HAS UNANIOUSLY VOTED TO REJECT THE SUGGESTION FOR A REHEARING EN BANC.

THE FULL COURT HAS BEEN ADVISED OF THE EN BANC SUGGESTION AND NO JUDGE OF THE COURT HAS REQUESTED A VOTE ON IT. FED. R. APP. P. 35(b).

THE PETITION FOR REHEARING IS DENIED AND THE SUGGESTION FOR A REHEARING EN BANC IS REJECTED.

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED FEB 19 1981 -RICHARD H. DEANE
CLERK, U.S. COURT OF APPEALS

MINTA H. REICHEL PLAINTIFF-APPELLANT VS CALIFORNIA SHASTA SUPERIOR COURT JUDGES, ET AL, DEFENDANTS-APPELLEES)	NO. 80-4328 D.C. C 79-73-MLS EASTERN CALIFORNIA (SACRAMENTO) ORDER

BEFORE: TANG AND SKOPIL, CIRCUIT JUDGES

UPON DUE CONSIDERATION, THE COURT ISSUES THE FOLLOWING ORDER:

(a) APPELLEES' MOTIONS FOR SUMMARY AFFIRMANCE ARE DENIED, BECAUSE IT APPEARS THAT APPELLANT RAISES ISSUES ON APPEAL WHICH WARRANT FURTHER CONSIDERATION BY THIS COURT AND,

(b) APPELLEES SHALL FILE THEIR BRIEFS WITHIN FOURTEEN (14) DAYS OF THE ENTRY OF THIS ORDER.

IN THE UNITED STATES DISTRICT COURT

FPR THE EASTERN DISTRICT OF CALIFORNIA

(FILED MARCH 18, 1980)

MINTA H. REICHEL	)	
	)	
PLAINTIFF,	)	
	)	
VS	)	CIVIL NO.
	)	S-79-73-MLS
CALIFORNIA SHASTA COUNTY	)	
SUPERIOR COURT JUDGES	)	
ET AL,	)	
DEFENDANTS.	)	

MEMORANDUM AND ORDER

THE MOTIONS OF DEFENDANTS FRANKLIN S. CIBULA, RANDALL J. PRESLIEGH (PRESLEIGH) NES CHRISTENSEN, ROLAND IVERSON, SHASTA SUPERIOR COURT JUDGES CLYDE SMALL, RICHARD W. ABBE, RICHARD B. EATON, AND WILLIAM H. PHELPS, SHASTA COUNTY BOARD OF SUPERVISORS AND SUPERVISORS HENRY KEEFER, BESSIE L. SANDERS, PATRICK LA POINTE, JOHN R. CATON, R.D.GOVER, SUSAN L. EVANS AND STEPHEN C. SWENDIMAN, SHASTA COUNTY COUNSEL ROGERT A. REHBERG, SHASTA COUNTY LAW LIBRARY BOARD OF DIRECTORS AND DIRECTORS LAWRENCE

(LAURENCE) W. CARR, ALBERT F.CUNNINGHAM, TODD C. FINEBERG, TO DISMISS THIS ACTION FOR FAILURE TO STATE A CLAIM CAM ON FOR HEARING ON MARCH 14, 1980, PURSUANT TO FORMAL NOTICE OF MOTION. APPEARANCES WERE MADE BY PLAINTIFF MINTA REICHEL, IN PRO PER, BY KATHLEEN JOLLY FOR DEFENDANT CIBULA BY JAMES FREEMAN FOR DEFENDANTS CHRISTENSEN AND IVERSON, AND BY DAVID SCHMIDT FOR DE-FENDANT PRESLEIGH. THERE WERE NO OTHER APPEARANCES. ORAL ARGUMENT WAS PRESENTED BY THE APPEARING COUNSEL AND BY PLAINTIFF.

THE COURT ANNOUNCED AT THE HEARING ITS INTENTION TO GRANT THE MOTIONS TO DISMISS AS TO DEFENDANTS CIBULA, PRESLEIGH,CHRIST-ENSEN AND IVERSON, AND TOOK THE REMAINING MOTIONS TO DISMUSS UNDER SUBMISSION. AFTER CONSIDERING THE MEMORANDA AND DECLARATIONS SUBMITTED BY THE PARTIES, AND PLAINTIFF'S ORAL ARGUMENT, THE COURT CONSIDERS THE RE-MAINING MOTIONS TO DISMISS THIS ACTION FOR

FAILUR TO STATE A CLAIM TO BE WELL TAKEN, AND, THEREFORE, GRANTS THOSE MOTIONS.

PLAINTIFF'S CLAIMS UNDER 42 U.S.C. §§1983, 1985(3) and 1986 AGAINST THE DEFENDANT JUDGES, SUPERVISORS, LIBRARY DIRECTORS AND COUNTY COUNSEL, FAIL BECAUSE PLAINTIFF'S COMPLAINT, ITSELF, ESTABLISHES THAT THE CHALLENGED LIBRARY POLICIES RESTRICTING PUBLIC ACCESS TO THE LAW LIBRARY WERE RATIONALLY RELATED TO THE LEGITIMATE GOVERNMENTAL OBJECTIVE OF PRESERVING AND PROTECTING LAW LIBRARY RESOURCES. SEE WRIGHT V LANE COUNTY COMMISSIONERS, , 459 F.2d 1021(9 th Cir.1972). THE COURT DOES NOT READ BOUNDS V SMITH , 97 S. Ct. 1491 (1977), AS REQUIRING THE SAME RESULT. THE AFFIRMATIVE DUTIES IMPOSED ON STATE OFFICIALS BY THAT CASE ARE IMPOSED TO OVER-COME THE DISABILITIES THAT CONFINEMENT IM-POSES UPON A PRISONER IN EXERCISING HIS FUNDAMENTAL RIGHT OF ACCESS TO THE COURTS.

PLAINTIFF, AND OTHER UNINCARCERATED PERSONS, ARE NOT SUBJECT TO SUCH DISABILITIES. THE MANDATE OF BOUNDS V SMITH , SUPRA IS THEREFORE, INAPPLICABLE TO THIS CASE.

PLAINTIFF ALSO FAILS TO STATE CLAIMS UNDER UNDER 42 U.S.C.§§1988 and 2000a-1 AGAINST THESE DEFENDANTS. SECTION 1988 DOES NOT IN AND OF ITSELF CREATE ANY REMEDIES FOR VIOLATIONS OF CIVIL RIGHTS. PYLES V. KEAN 418 F.Supp 269, 271 n 1 (S.D.N.Y. 1976); CANNON V. UNIVERSITY OF CHICAGO, 559 F.2d 1063 (7th Cir. 1976), REV'D ON OTHER GROUNDS 99 S.CT 1946(1979). Section 2000a-1 PROVIDES A CAUSE OF ACTION FOR DISCRIMINATION ON THE GROUNDS OF RACE, COLOR, RELIGION, OR NATIONAL ORIGIN. PLAINTIFF DOES NOT ALLEGE ANY SUCH DISCRIMINATION.

NOR DOES PLAINTIFF STATE A CLAIM AGAINST THESE DEFENDANTS DIRECTLY UNDER THE FIRST, FIFTH, THIRTEENTH, OR FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION. DIRECT

ACTIONS UNDER THE FIRST AND FIFTH AMENDMENTS REDRESS ONLY CONSTITUTIONAL TORTS UNDER COLOR OF FEDERAL LAW. DAVIS V PASSMAN, 99 s.ct. 2264 (1979); DELLUMS V POWELL, 566 F.2d 167 (D.C.Dir. 1977): BATON V PRADE, 524 F2d 862 (3rd Cir. 1975) PETERSON V TALISMAN SUGAR CORP., 478 F2d 73 (5th Cir. 1973); PATMORE V. CARLSON, 392 F. SUPP. 737 (E.D. ILL. L975). PLAINTIFF FAILS TO ALLEGE ANY ACTION UNDER COLOR OF FEDERAL LAW ON THE PART OF THESE DEFENDDANTS. PLAINTIFF FURTHER FAILS TO STATE A CLAIM UNDER THE THIRTEENTH AMENDMENT SINCE SHE FAILS TO ALLEGE ANY RACIAL DISCRIMINATION ON THE PART OF THESE DEFENDANTS. FINALLY PLAINTIFF FAILS TO STATE A CLAIM DIRECTLY UNDER THE FOURTEENTH AMENDMENT. COURTS HAVE YET TO RECOGNIZE A DIRECT CAUSE OF ACTION UNDER THIS AMENDMENT. SEE MOLINA V. RICHARDSON, 578 F.2d 846 (9th Cir 1978): TURPIN V MAILET, 591 F.2d 426

(2d Cir. 1979).

IT IS THEREFORE ORDERED THAT THE MOTIONS TO DISMISS PLAINTIFF'S COMPLAINT FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED ARE GRANTED AS TO DEFENDANTS FRANKLIN S. CIBULA, RANDALL J. PRESLEIGH, NELS CHRISTENSEN, ROLAND IVERSON, SHASTA SUPERIOR COURT JUDGES CLYDE SMALL, RICHARD W. ABBE, RICHARD B. EATON, AND WILLIAM H. PHELPS, SHASTA COUNTY BOARD OF SUPERVISORS AND SUPERVISOR HENRY KEEFER, BESSIE L. SANDERS, PATRICK LA POINTE, JOHN R. CATON, R.D. GOVER, SUSAN L. EVANS, AND STEPHEN . C. SWENDIMAN, SHASTA COUNTY COUNSEL ROBERT A. REHBERG, SHASTA COUNTY LAW LIBRARY BOARD OF DIRECTORS AND DIRECTORS LAURENCE W. CARR, ALBERT F. CUNNINGHAM, AND TODD C. FINEBERG, AND THE ACTION IS DISMISSED WITH PREJUDICE, AS TO THEM.

DATED: MARCH 18, 1980

/s/MILTON L. SCHWARTZ
UNITED STATES
DISTRICT JUDGE

MINTA H. REICHEL
P.O. BOX 2304
REDDING, CA 96099
TELE(916) 241-6772
APPEARING IN PRO SE

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MINTA H. REICHEL	) NO.80-4328
PLAINTIFF-APPELLANT	) D.C.NO-S79-73-MLS
VS	) CORRECTION OF
	) ERROR FROM APPEAL
CALIFORNIA SHASTA	) TO PETITION FOR
COUNTY SUPERIOR COURT	) CERTIORARI TO THE
JUDGES, ET AL	) UNITED STATES S
DEFENDANTS-APPELLEES	) SUPREME COURT
	28 USC 1254(1)
	28 USC 2103
	U.S. SUPREME COURT
	RULE 19.1,2,
	REQUEST CLERK TO
	CERTIFY AND TRANSMIT

MINTA H. REICHEL, PLAINTIFF APPELLANT HEREIN APOLOGISES TO THIS COURT FOR HER MIS-INTERPRETATION OF 28 U.S.C. 1254(2) ON JUNE 10, 1982, TYPOGRAPHICAL ERROR CORRECTION REQUESTED ON JUNE 24, ACCEPTED AND FILED ON JUNE 28, 1982 BY THIS COURT.

I ERRORED IN READING 28 U.S.C. 1254(2) AND U.S. SUPREME COURT RULE 10. THEREFORE PLAINTIFF-APPELLANT PRAYS THAT MY NOTICE

OF APPEAL MAY BE INTERPRETED UNDER 28 USC. 2103 BEING A NOTICE OF MY INTENT FOR WRIT OF CERTIORARI UNDER 28 U.S.C. 1254(1), AND NOT APPEAL UNDER 28 USC 1254(2) AS FILED ON JUNE 24, 1982 AND JUNE 28, 1982.

PETITION FOR WRIT OF CERTIORARI WILL CONTINUE TO BE A REQUEST OF REVIEW OF THE COURT OF APPALS MEMORANDUM AND ORDER, THE STATUTES 42 U.S.C. 1983, 1985(2)(3), 1986, 1988, 2000a-(b)(4),(c),(d), and 2000a-1 AS OF THE UNITED STATES CODES;ALSO THE FIRST, FIFTH, THIRTEENTH, FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, CIVIL RIGHTS ACT 1871, EQUAL RIGHTS ACT 1964.

1.THE MEMORANDUM DECISION OF THIS COURT IS IN CONFLICT WITH ANOTHER DECISION OF COURT OF APPEALS DISTRICT OF NEVADA OF THE NINTH CIRCUIT; HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS; AND SO FAR SANCTIONED

SUCH A DEPARTURE BY A LOWER COURT AS TO CALL FOR AN EXCERCISE OF THIS COURT'S POWER OF SUPERVISION; WHEN A FEDERAL COURT OF APPEALS HAS DECIDED AN IMPORTANT QUESTION OF FEDERAL LAW WHICH HAS NOT BEEN, BUT SHOULD BE SETTLED BY THIS COURT, OR HAS DECIDED A FEDERAL QUESTION IN A WAY IN CONFLICT WITH APPLICABLE DECISIONS OF THIS COURT, AS STATED IN RULE 17.1(a)(b)(c).

IN ACCORDANCE WITH RULE 19.1, REQUEST FOR CERTIFICATION OF THE RECORDS ON THIS CASE, INCLUDING ALL DOCUMENTS LISTED AS EXHIBITS FILED ON JUNE 1, 1981 IN CUSTODY OF THIS COURT FOR TRANSMITAL TO THE SUPREME COURT.

NO HARM HAS BEEN DONE TO DEFENDANTS AND THERFORE THIS NOTICE OF MISINTERPRETATION IS TIMELY AS THE JURISDICTIONAL STATEMENT AND PETITION FOR WRIT OF CERTIORARARI ARE BOTH NINETY DAYS.

DATED: /s/JULY 22, 1982

/s/MINTA H. REICHEL

AMENDMENTS TO THE CONSTITUTION-------

AMENDMENT I---FREEDOM OF RELIGION, SPEECH AND PRESS; ------

CONGRESS SHALL MAKE NO LAW----OR ABRIDGING THE FREEDOM OF SPEECH, OR OF THE PRESS; --- PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES.

AMENDMENT V.-----DUE PROCESS; JUST COMPENSATION FOR PROPERTY

NO PERSON SHALL ----BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW; NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE, WITHOUT JUST COMPENSATION."

AMENDMENT XIII- SLAVERY ABOLISHED

SECTION 1: NEITHER SLAVERY NOR INVOLUNTARY SERVITUDE, EXCEPT AS A PUNISHMENT FOR CRIME WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED, SHALL EXIST WITHIN THE UNITED STATES, OR ANY PLACE SUBJECT TO THEIR JURISDICTION

SECTION 2: CONGRESS SHALL HAVE POWER TO

ENFORCE THIS ARTICLE BY APPROPRIATE LEGISLATION.

AMENDMENT XIV.- CITIZENSHIP; PRIVILEGES AND IMMUNITIES; DUE PROCESS; EQUAL PROTECTION; APPORTIONMENT OF REPRESENTATION; DISQUALIFICATION OF OFFICERS; PUBLIC DEBT; ENFORCEMENT

SECTION I. ALL PERSONS BORN OR NATURALIZED IN THE UNITED STATES, AND SUBJECT TO THE JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED STATES AND OF THE STATE WHEREIN THEY RESIDE. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES; NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW; NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS. -----"

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA IN AND FOR THE THIRD APPELATE DISTRICT
(SHASTA)

FILED DECEMBER 12, 1977, COURT OF APPEAL THIRD DISTRICT, WILFRIED J. KRAMER, CLERK

MINTA H. REICHEL, PLAINTIFF AND APPELLANT	3 CIV. 16263
VS	SUPERIOR CT. NO. 54513
OCHINERO CONSTRUCTION COMPANY, INC., A CORPORATION, ET AL. DEFENDANTS AND RESPONDENTS.	

THE COURT:

PLAINTIFF APPEALS FROM JUDGMENT OF DISMISSAL AFTER THE COURT SUSTAINED DEMURRERS WITHOUT LEAVE TO AMEND.

FACTS.

BASED PRINCIPALLY ON THE THEORY OF NEGLIGENCE IN THE CLEARING OF CALABOOSE CREEK AND THE CONSTRUCTION OF A CULVERT AND PARK-

ING LOT ADJACENT TO HER PROPERTY, PLAINTIFF IN 1970 SUED THE WITHIN DEFENDANTS AND OTHERS[1] TO RECOVER FOR THE DAMAGE ALLEGELY RESULTING TO HER SWIMMING POOL, ITS COPING, AND APRON, AND THE RETAINING WALL AND FENCE. AFTER COURT TRIAL, THE TRIAL COURT FOUND FOR THE DEFENDANTS. WE AFFIRMED THE JUDGMENT IN AN OPINION FILED MAY 23, 1975(3 CIVIL 14495, uNPUB. OPN.).

IN 1976 PLAINTIFF FILED THE INSTANT COMPLAINT FOR DAMAGES AGAINST THE SAME DEFENDDANTS. THIS COMPLAINT CONTAINS FIVE CAUSES OF ACTION. THE FIRST IS FOR INVERSE CONDEMNATION AGAINST THE CITY OF REDD. THE SECOND THROUGH FIFTH CAUSES OF ACTION ARE FOR TRESPASS AND ENCROACHMENT AGAINST THE REMAINING NAMED DEFENDANTS (THE "OCHINERO AND WOODWARD GROUP") AND VARIOUS UNNAMED DOE DEFENDANTS. ALL FIVE CAUSES OF ACTION ARE

1. THE NAMED DEFENDANTS WERE: CITY OF REDDING; WOODWARD AND NICHOLS, A CO-PARTNERSHIP; WILLARD M. WOODWARD: JANE E . WOOD - WARD; EUGENE NICHOLS: TAMMY NICHOLS; OCHINERO CONSTRUCTION COMPANY, INC.; EDWARD OCHINERO; AND BEATRICE OCHINERO.

BASED ON THE SAME FACTUAL SITUATION AS HAD BEEN THE SUBJECT OF PLAINTIFF'S 1970 LAWSUIT, NAMELY, THE CLEARING OF CALABOOSE CREEK AND THE CONSTRUCTION OF A CULVERT AND PARKING LOT ADJACENT TO PLAINTIFF"S PROPERTY.

THE OCHINERO AND WOODWARD GROUP FILED DEMURRERS TO PLAINTIFF'S COMPLAINT ON JUNE 24 1976, THE COURT SUSTAINED THE DEMURRERS ON THE BASIS OF RES JUDICATA AND COLLATERAL ESTOPPEL WITHOUT LEAVE TO AMEND. ON JUNE 30 1976, JUDGMENT OF DISMISSAL WAS ENTERED IN FAVOR OF THE OCHINERO AND WOODWARD GROUP FROM WHICH PLAINTIFF APPEALS.

A CAUSE OF ACTION IS BASED UPON THE IN-JURY TO THE PLAINTIFF, AND NOT THE PARTICU-LAR LEGAL THEORY BY WHICH PLAINTIFF CHARACT-ERIZES DEFENDANT'S WRONGFUL ACT. HENCE A JUDGMENT FOR THE DEFENDANT IS A BAR TO A SUBSEQUENT ACTION BY THE PLAINTIFF BASED ON THE SAME INJURY TO THE SAME RIGHT, EVEN THOUGH A DIFFERENT LEGAL GROUND FOR RELIEF IS PRESENTED. (SLATER V BLACKWOOD (1975)

15 CAL 3d 791, 795; PANOS V. GREAT WESTERN PACKING CO. (1943) 21 CAL 2d 636, 638; SEE GENERALLY 3 WITKIN, CAL. PROCEDURE (2dED. 1971) PLEADING, §§24 p 1709.)

HERE PLAINTIFF ATTEMPTED IN 1976 TO STATE A CAUSE OF ACTION AGAINST THE OCHINERO AND WOODWARD GROUP BY OFFERING DIFFERENT LEGAL THEORIES THAN SHE HAD ADVANCED IN HER 1970 COMPLAINT.NONETHELESS PLAINTIFF HAD BUT ONE CLAIMED INJURY GIVING RISE TO BUT ONE CAUSE OF ACTION, NAMELY, THE ALLEGED EROSION OF HER PROPERTY. THE COURT'S ACTION IN SUSTAINING THE DEMURRERS OF THE OCHINERO AND WOODWARD GROUP WITHOUT LEAVE TO AMEND WAS PROPER (SLATER V BLACKWOOD, SUPRA, 15 CAL.3RD AT p795.)

PLAINTIFF'S CONTENTION THAT JUDGE ABBE SHOULD HAVE DISQUALIFIED HIMSELF FROM ACTING AS JUDGE IN THE INSTANT CASE WILL NOT BE REVIEWED ON APPEAL THERE IS NO INDICATION THAT PLAINTIFF MADE A MOTION IN THE LOWER COURT TO DISQUALIFY JUDGE ABBE: THEREFORE, SHE HAS VAIVER HER RIGHT TO RAISE THE ISSUE

ON APPEAL. (SEE PEOPLE V ESCOBEDO (1973) 35 CAL APP. 3d 32, 36; WHISTLER V ONDULANDO HIGHLANDS CORP. (1970) 13 CAL.APP. 3d 108, 117,118.)

PLAINTIFF'S CONTENTION REGARDING HER LIMITED USE OF THE LAW LIBRARY IS NOT SUPPORTED BY CASE AUTHORITY;THEREFORE, IT MAY BE DEEMED TO BE WITHOUT FOUNDATION AND REQUIRES NO DISCUSSION.(SOLOMONT V. POLK DEVELOPMENT CO. 1966) 245 CAL. APP 2d 488, 496.)

THE JUDGMENT OF DISMISSAL IS AFFIRMED.

FOR THE COURT;

PUGLIA P.J.

FRIEDMAN

REYNOSO

IN THE

COURT OF APPEAL OF THE STATE OF CALIFORNIA

IN AND FOR THE

THIRD APPELLATE DISTRICT

FILED DECEMBER 28, 1977

MINTA H. REICHEL 3 CIVIL 16263

v SHASTA 54513

OCHINERO CONSTRUCTION CO.

BY THE COURT:

APPELLANT'S PETITION FOR REHEARING IS DENIED.

DATED: DECEMBER 28, 1977

FRIEDMAN, ACTING P.J.

CC: MINTA H. REICHEL
P.O. BOX 2304
REDDING, CA 96001

NELS A CHRISTENSEN
ATTORNEY AT LAW
P.O. BOX 676
CHICO, CA 95926

ROLAND IVERSON, JR
RICH, FUIDGE, MARSH & MORRIS
ATTORNEYS AT LAW
P.O. DRAWER A
MARYSVILLE, CA

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA IN AND FOR THE THIRD APPELLATE DISTRICT

MINTA H. REICHEL, PLAINTIFF AND APPELLANT,	) 3CIVIL 17535) (SUPERIOR) COURT NO.
vs	) 58025)
CITY OF REDDING, ET AL, DEFENDANTS AND RESPONDENTS	)

(FILED NOV 27, 1978 COURT OF APPEAL THIRD DISTRICT WILFRIED J. KRAMER, CLERK BY_____DEPUTY)

PLAINTIFF APPEALS FROM A JUDGMENT OF DISMISSAL AFTER THE TRIAL COURT SUSTAINED DEFENDANTS' DEMURRERS TO HER COMPLAINT WITHOUT LEAVE TO AMEND. THE RULING WAS BASED ON RES JUDICATA, COLLATERAL ESTOPPEL, AND ANOTHER ACTION PENDING BETWEEN THE SAME PARTIES.

PLAINTIFF FILED A COMPLAINT IN 1970 BASED PRINCIPALLY ON THE THEORY THAT DEFENDANTS WERE NEGLIGENT IN THE CLEARING OF CALABOOSE CREEK AND THE INSTALLATION AND CONSTRUCTION OF HER PROPERTY: SHE SOUGHT DAMAGES TO HER

SWIMMING POOL, ITS COPING AND APRON, AND THE RETAINING WALL AND FENCE. (REICHEL V CITY OF REDDING (5/23/75) 3 CIV. 14495 (REICHEL I). THE TRIAL COURT GRANTED JUDGMENT IN FAVOR OF DEFENDANTS, AND WE AFFIRMED (IBID).

IN 1976 PLAINTIFF AGAIN FILED A COMPLAINT FOR DAMAGES AGAINST THE SAME DEFENDANTS; SHE ALLEGED FIVE CAUSES OF ACTION. THE FIRST WAS FOR INVERSE CONDEMNATION AGAINST THE CITY OF REDDING, AND THE SECOND THROUGH FIFTH WERE FOR TRESPASS AND ENCROACHMENT AGAINST THE REMAINING NAMED DEFENDANTS (OCHINEROR AND WOODWARD GROUP) AND VARIOUS UNNAMED DOE DEFENDANTS. THE CAUSES OF ACTION WERE BASED ON THE SAME FACTUAL SITUATION AS HAD BEEN THE SUBJECT OF HER 1970 COMPLAINT, NAMELY THE CLEARING OF CALABOOSE CREEK AND THE CONSTRUCTION OF A CULVERT AND PARKING LOT ADJACENT TO PLAINTIFF'S PROPERTY. WE AFFIRMED THE JUDGMENT OF DISMISSAL ENTERED AFTER TRIAL COURT SUSTAINED DEMURERS TO THE COMPLAINT BY THE OCHINERO

AND WOODWARD GROUP ON THE BASIS OF RES JUDICATA AND COLLATERAL ESTOPPEL. (REICHEL V OCHINERO CONSTRUCTION COMPANY, INC. (12/12/77) 3 CIV 16263 (REICHEL II).

IN THE INSTANT CASE, PLAINTIFF FILED A COMPLAINT ON JULY 5, 1977, WHICH AGAIN NAMED THE SAME DEFENDANTS AND ADDITIONALLY NAMED THREE EMPLOYEES OF THE CITY OF REDDING (JACK LANG, ENGWARD NIELSEN, ROBERT GALUSHA). SHE NOW ALLEGES SIX CAUSES OF ACTION. THE FIRST IS FOR INVERSE CONDEMNATION BY THE CITY OF REDDING AND ALSO FO FOR THE NEGLIGENCE AND OTHER CONDUCT OF ITS EMPLOYEES (RES PONDEAT SUPERIOR). THE SECOND CAUSE OF ACTION IS FOR FRAUDULENT CONDUCT BY THE AFOREMENTIONED CITY EMPLOYEES AS WELL AS WILLARD WOODWARD AND EDWARD OCHINERO. THE THIRD AND FOURTH CAUSES OF ACTION ARE FOR TRESPASS AND ENCROACHMENT BY THE OCHINERO AND WOODWARD GROUP: THE FIFTH AND SIXTH CAUSES OF ACTION ARE FOR EXEMPLARY DAMAGES BASED ON THE WILLFUL,

WANTON AND MALICIOUS ACTS ALLEGED IN THE PRECEDING CAUSES OF ACTION. ALL SIX CAUSSES OF ACTION ARE AGAIN BASED ON THE SAME FACTUAL SITUATION AS THE PRIOR LAWSUITS, NAMELY, THE CLEARING OF CALABOOSE CREEK AND THE CONSTRUCTION OF A CULVERT AND PARKING LOT ADJACENT TO PLAINTIFF"S PROPERTY.

THE DEFENDANTS FILED DEMURRERS TO THE COMPLAINT. ON NOVEMBER 3, 1977, THEY WERE SUSTAINED WITHOUT LEAVE TO AMEND, AND THE JUDGMENT OF DISMISSAL FROM WHICH PLAINTIFF APPEALS WAS ENTERED ON NOVEMBER 16, 1977.

WE REJECT THE CONTENTION THAT THE TRIAL COURT ERRED IN SUSTAINING DEFENDANTS'DEMURRERS. THE DOCTRINES OF RES JUDICATA ARE APPLICABLE TO THE CASE AT BENCH, THEREFORE WE NEED NOT CONSIDER PLAINTIFF"S REMAINING CONTENTIONS.* AS STATED IN OUR OPIN-

* * PLAINTIFF'S CONTENTION THAT RESTRICTED USE OF THE LAW LIBRARY CONSTITUTES A DENIAL OF DUE PROCESS AND EQUAL PROTECTION OF THE LAW IS NOT PROPERLY BEFORE US (CODE CIV. PROC., SEC. 904.1).

ION IN REICHEL II: " A CAUSE OF ACTION IS BASED UPON THE INJURY TO THE PLAINTIFF, AND NOT THE PARTICULAR LEGAL THEORY BY WHICH PLAINTIFF CHARACTERIZES DEFENDANT"S WRONGFUL ACT. HENCE A JUDGMENT FOR THE DEFENDANT IS A BAR TO A SUBSEQUENT ACTION BY THE PLAINTIFF BASED ON THE SAME INJURY TO THE SAME RIGHT, EVEN THOUGH A DIFFERENT LEGAL GROUND FOR RELIEF IS PRESENTED."

WE ARE HERE PRESENTED WITH THE SAME SITUATION AS IN REICHEL II. PLAINTIFF IS AGAIN ATTEMPING TO STATE A CAUSE OF ACTION AGAINST DEFENDANTS BY ALLEGING DIFFERENT LEGAL THEORIES; SHE NOT ONLY ALLEGES DIFFERENT THEORIES BUT BRINGS IN ADDITIONAL PARTIES. SINCE THE COMPLAINT IS AGAIN BASED UPON EROSION TO HER PROPERTY, WE AGAIN FIND THAT SHE HAD BUT ONE CLAIM FOR RELIEF. (SEE REICHEL II.) THERE HAVING BEEN A PRIOR ADJUDICATION ON THE MATTER, PLAINTIFF IS BARRED FROM PROCEEDING UPON A DIFFERENT LEGAL GROUNDS FOR SUCH RELEIF. (SLATER V.BLACKWOOD (1975) 15 CAL.3d

791, 795; ; KINGSBURY V TEVCO. INC. (1978) 79 CAL.APP. 3D 314, 317). THE FACT THAT SHE ADDED THREE CITY EMPLOYEES TO HER LIST OF NAMED DEFENDANTS IN THE PRESENT SUIT DOES NOTHING TO ALTER THE SITUATION. THERE WAS SUBSTANTIAL IDENTITY OF PARTIES BETWEEN THE FORMER ACTIONS AND THE PRESENT ONE. (4 WITKIN, CAL. PROCEDURE (2d ED. 1971) JUDGMENT, SEC. 222, P. 3357; SEE HILTS V COUNTY OF SOLANO (1968) 265 CAL.APP. 2D 161, 1 6.)

PLAINTIFF CONTENDS THAT THE FOREGOING ANALYSIS IS APPLICABLE SINCE THERE WAS A CONTINUING TRESPASS AND SHE MAY BRING A N NEW ACTION FOR EACH TRESPASS. WHAT PLAINTIFF REFUSES TO COMPREHEND IS THAT THE TRIAL COURT HERETO DETERMINED THAT THERE IS NO ACTIONABLE WRONG UPON WHICH TO PREDICATE LIABILITY FOR THE HARM THE PLAINT TIFF'S PROPERTY, AND WE AFFIRMED THAT JUDGMENT IN REICHEL I. PLAINTIFF HAS FAIL-

ED TO ALLEGE A NEW FACTUAL BASIS FOR HER COMPLAINT-- SHE MERELY ASSERTS THAT A STORM IN AUGUST 1976 CAUSED FURTHER EROSION TO HER PROPERTY. A "CONTINUING TRESPASS" IS BASED UPON A WRONGFUL ACT WHICH CONTINUES TO CAUSE INDURY. (2 WITKIN, CAL. PROCEDURE (2d ED. 1970) ACTIONS SEC. 321, PP 1165-1166). THE TRIAL COURT'S DETERMINATION WHICH WE AFFIRMED IN REICHEL I, THAT DEFENDANTS' CONDUCT DID NOT CONSTITUTE A WRONGFUL ACT IN THE FIRST INSTANCE, PRECLUDES A SUBSEQUENT CLAIM FOR FURTHER INJURIES DUE TO THAT CONDUCT.

PLAINTIFF H S SHOWN NO JUSTIFICATION FOR THIS APPEAL, LET ALONE ANY REASONABLE ARGUMENT TO SUPPORT IT. THE APPEAL IS FRIVOLOUS WITHIN THE MEANING OF CALIFORNIA'S RULES OF COURT, RULE 26(a). A SANCTION OF $500. IS IMPOSED AGAINST PLAINTIFF, PAYABLE PRORATA TO DEFENDANTS CITY OF REDDING, OCHINERO CONSTRUCTION COMPANY, INC., A CORPORA-

TION, AND WOODWARD AND NICHOLS, A COPART-

NERSHIP.

THE JUDGMENT IS AFFIRMED.

PARAS ACTING P.J.

****

CLERK'S OFFICE SUPREME COURT
4250 STATE BUILDING, S N FRANCISCO, CA.

FILED.

I HAVE THIS DAY FILED ORDER JANUARY 24, 1979

HEARING DENIED

IN RE: 3 CIV NO. 17535

REICHEL

vs

CITY OF REDDING, ET AL

RESPECTFULLY,

G.E. BISHEL
CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SHASTA

NO. 99
B. 486

MAY 1, 1973 HON. R.W. ABBE, JUDGE

#42361

MINTA H. REICHEL
PLAINTIFF

VS

CITY OF REDDING, ET AL
DEFENDANTS.

O R D E R

COUNSEL FOR PLAINTIFF HAS FILED HEREIN A MOTION TO BE REMOVED AS ATTORNEY OF RECORD FOR THE PLAINTIFF. THE COURT HAS DISCUSSED THIS MATTER WITH BOTH PLAINTIFF AND COUNSEL FOR PLAINTIFF AND IT IS QUITE APPARENT TO THE COURT THAT THE RELATIONSHIP BETWEEN THE PLAINTIFF AND HER ATTORNEY HAS DETERIORATED TO THE POINT THAT NEITHER PLAINTIFF NOR HER ATTORNEY WISH TO BE ASSOCIATED WITH EACH OTHER IN ANY WAY. THE MATTER HAVING ALRRADY BEEN SUBMITTED

TO THE COURT, THE COURT CAN SEE NO REASON FOR NOT GRANTING THE REQUEST OF COUNSEL FOR PLAINTIFF, CONCURRED IN BY PLAINTIFF.

THE COURT ORDERS THAT CIBULA & CIBULA SHALL BE DISCHARGED AS ATTORNEYS OF RECORD HEREIN AND THAT THE PLAINTIFF SHALL BE SUBSTITUTED HEREIN IN PROPRIA PERSONNA. COUNSEL FOR DEFENDANTS ARE ADVISED THAT THE PLAINTIFF'S ADDRESS IS:1945 SHASTA ST. REDDING, CALIFORNIA

FILED
MAY 2, 1973
/s/ G. Savage

CIBULA & CIBULA
MINTA H. REICHEL, 1945 SHASTA ST., REDDING

CLYDE SMALL

CHARLES C. DAWSON, JR., ATT. AT LAW,
DRAWER A, MARYSVILLE, CA 95901

LAUGHLIN, CRAIG & CHRISTENSEN, ATT. AT LAW
P.O. BOX 676 CHICO, CA 95926

/s/ R.W. ABBE JUDGE

PROOF OF SERVICE BY FEDERAL EXPRESS

I, THE UNDERSIGNED, DECLARE UNDER PENALTY OF PERJURY THAT I AM A CITIZEN OF THE UNITED STATES AND A RESIDENT OF THE COUNTY OF SHASTA OF CALIFORNIA.

I AM OVER 18 YEARS OF AGE AND A PARTY TO THE WITHIN ACTION AS A NON-LAWYER LITIGANT IN PROPRIA PERSONNA WITHIN THE ENTITLED ACTION. ON SEPTEMBER 22, 1982 I SERVED THE WITHIN: PETITION FOR CERTIORARI

1. JOHN KENNY, SHASTA COUNTY COUNSEL, SHASTA COUNTY COURTHOUSE, COURT ST, REDDING, CALIFORNIA 96001,

2. JAMES T. FREEMAN OF DIEPENBROCK, WULFF, PLANT & HANNEGAN, 455 CAPITOL MALL, SUITE 800, SACRAMENTO, CA 95814,

3. KATHLEEN E. JOLLY, FRANKLIN CIBULA, P.O. BOX AM, REDDING, CA 96099,

4. DAVID SCHMIDT, PRESLEIGH, AREL AND D DUNLAP, 1745 YUBA STREET, P.O. DRAWER AT, REDDING, CA. 96099

5. W. LEONARD WINGATE, WELLS, WINGATE & SMALL, P.O. BOX 1846, REDDING, CA 96099

6. SOLICITOR GENERAL, DEPARTMENT OF JUSTICE WASHINGTON, D.C. 20530

7. CALIFORNIA STATE ATTORNEY GENERAL, 555 CAPITOL MALL, SACRAMENTO, CA. 95814

Dated: September 22, 198

Sheila L. Kuehl

Office - Supreme Court, U.S.
FILED
SEP 23 1982
ALEXANDER L. STEVAS,
CLERK

82-513

NO. _____

IN THE SUPREME COURT

OF THE

UNITED STATES

OCTOBER TERM 1982

MINTA H. REICHEL, AS A CALIFORNIA SHASTA COUNTY OWNER RESIDENT AND AS A NON-LAWYER LITIGANT APPEARING IN CALIFORNIA SHASTA COUNTY SUPERIOR COURT IN PROPRIA PERSONNA

PETITIONER

VS

CALIFORNIA SHASTA COUNTY SUPERIOR COURT JUDGES ET AL

RESPONDENTS

ON WRIT OF CERTIORARI TO THE UNITED STATES

COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITIONER'S APPENDIX

MINTA H. REICHEL,
P.O. BOX 2304
REDDING, CALIFORNIA 96099
TELEPHONE (916) 241-6772
PETITIONER APPEARING
IN PROPRIA PERSONNA

APPENDIX INDEX

NUMBER	PAGE
APP-A, US C/A MEMORANDUM----------	1a
APP-B, US C/A ORDER----------	14a
APP-C, US C/A ORDER----------	15a
APP-D, US DIST/COURT MEMO/ORDER----	16a
APP-E, PET FOR CERT----------	22a
APP-F, US CONST. AMENDMENTS--------	25a
APP-G, CALIF C/A #3 CIV 16263------	27a
APP-H, CALIF C/A DENY REHEAR-------	32a
APP-I, CALIF C/A 3 CIV 17535-------	33a
APP-J, CALIF SUP/C ORDER DISCHARGE-	41a
APP-K, CIBULA CIBULA LETTER------	43a
APP-L, CALIF.SUP/CT #42361 MEMO----	45a
APP-M, CALIF. SUP/CT #42361 FF/CL--	49a
APP-N, CALIF. SUP/CT #42361 ORDER--	53a
APP-O, CALIF. SUP/CT ORDER---------	56a
APP-P, CALIF. C/A 3rd 3CIV 14495---	57a
APP-Q, CALIF. RUL/ DEMUR/ #54513---	62a
APP-R, CALIF. SUP/CT RUL.DEM.#54513-	63a
APP-S, CALIF.SUP/CT. ORDER #58025---	66a

APP-T, CALIF. C/A 3 CIV 16644---------68a

APP-U, CLK. CALIF. C/A 3CIV 16668-----69a

APP-V, CALIF. C/A 3 CIV 16668---------71a

APP-W, CALIF C/A 3 CIV 16668----------72a

APP-X, CALIF. SUP/CT #54512----------73a

APP-Y, CALIF. SUP/CT #54512---------- 75a

APP-Z, US-42 U.S.C.§§1983,et seq------77a

APP-A1, CALIF. BUS.PRO.CODE §§6301 et-85a

APP-BL, CALIF CIV CODE §832----------95a

APP-C1, CALIF CODE CIV PRO §583-------98a

APP-D1, LETTER OF COMPLAINT----------99a

APP-D1, LETTER OF COMPLAINT----------101a

APP-E1, JUDGE EATON'S LETTER --------107a

APP-F1, LTR. RE LAW LIBRARY----------109a

APP-G1, LTR. RE; LAW LIBRARY---------114a

APP-H1, LTR. RE: LAW LIBRARY---------115a

APP-I1, CITY/RED/ORD. 944------------116a

APP-J1, LAW LIBRARY LETTER----------120a

APP-K1, LTRS. TO CALIF. SUP/CT-------122a

APP-L1, LTR. TO CALIF. SUP/CT JUDGES-125a

APP-M1, LTR. TO CALIF. JUDGE ABBE----127a

APP-N1, CITY/RED. PLAN.COM. MTG------130a

APP-O1, MOTION TO QUASH SERV.--------136a

APP-P1, RPTRS. TR. Nov.1, 1976-------141a

APP-Q1, SMALL'S CT.------------------146a

CIBULA & CIBULA
ATTORNEYS AT LAW
1743 TEHAMA STREET
REDDING, CALIFORNIA 96001

ALVIN M. CIBULA
FRANKLIN S. CIBULA

MAILING ADDRESS
POST OFFICE BOX AM

MAY 22, 1973

MRS. MINTA REICHEL
1945 SHASTA STREET
REDDING, CALIFORNIA

DEAR MRS. REICHEL:

AS YOU KNOW YOU OWE THIS OFFICE THE SUM OF $585.33 WHICH IS COURT COSTS PLUS ONE-THIRD OF RECOVERY PER AGREEMENT. AS YOU ALSO KNOW BY MUTUAL CONSENT WE HAVE BEEN RELIEVED AS COUNSEL. THIS DOES NOT RELIEVE YOU OF THE DUTY TO PAY US A FEE. IN CALIFORNIA IF THE ATTORNEY IS TERMINATED PRIOR TO JUDGMENT HE IS ALLOED TO REQUEST HIS TIME, RATHER THAN THE CONTINGENT FEE. ALTHOUGH THIS IS FAR MORE THAN THE CONTINGENT FEE AGREEMENT WE ARE STILL WILLING TO ACCEPT OUR ORIGINAL CONTRACT WITH YOU.

WE REALIZE THAT YOU MUST PREPARE A JUDG-

MENT AND A COST BILL IN ORDER TO COMPLETE THE TRANSACTION. WE ARE THEREFORE WILLING TO ASSIST YOU IN PREPARING THOSE DOCUMENTS AT NO EXTRA CHARGE.

IT IS PARTICULARLY IMPORTANT THAT WE ASSIST YOU WITH THE COST BILL AS THERE ARE CONSIDERABLE WITNESS FEES AND OTHER COSTS WHICH CAN BE COLLECTED IF PROPERLY PREPARED.

WE DO NOT WISH TO IMPOSE OUR SERVICES ON YOU. WE ARE SATISFIED TO BE RELIEVED AS COUNSEL AND ARE ONLY LOOKING TO YOU FOR PAYMENT OF OUR BILL IN THE SUM OF $585.33. WE ARE HOWEVER, WILLING TO ASSIST YOU IN PREPARATION OF ALL FINAL DOCUMENTS IN ORDER THAT YOU WILL NOT HAVE ANY ADDITIONAL EXPENSES ON THIS CASE.

I WILL LOOK FORWARD TO HEARING FROM YOU IMMEDIATELY.

VERY TRULY YOURS,

CIBULA & CIBULA

FSC:cm

/s/FRANKLIN S. CIBULA
FRANKLIN S. CIBULA

SUPERIOR COURT OF THE STATE OF

CALIFORNIA FOR THE COUNTY OF SHASTA

MINUTE BOOK 100 HON. R.W. ABBE
PAGE 122
DATE MAY 14, 1973

(FILED MAY 15, 1973, RICHARD C. BRENNAN SHASTA COUNTY CLERK)

#42361

MINTA H. REICHEL,
PLAINTIFF

VS

CITY OF REDDING, ET AL,
DEFENDANTS.

MEMORANDUM OF DECISION

THE EVIDENCE PRESENTED IN THIS CASE ESTABLISHED THAT IN THE SPRING OF 1970 MRS. KINCAID, THE TENANT AND OCCUPANT OF PLAINTIFF'S PROPERTY, BECAME AWARE THAT CRACKS IN THE POOL APRON HAD BECOME MUCH LARGER AND MORE EXTENDED THAN THEY HAD BEEN PREVIOUS FALL WHEN THE POOL WAS COVERED. THIS WAS APPARENT TO HER UPON MAKING PREPARATIONS TO USE THE POOL FOR THE COMING SEASON BY CLEANING AND UNCOVERING, AND IT

ALARMED HER SUFFICIENTLY TO FEEL REQUIRED TO NOTIFY HER LANDLORD.

THE PHOTOGRAPHS TAKEN AND INTRODUCED INTO EVIDENCE CLEARLY INDICATE THAT CONSSIDERAL EXCAVATION OF THE CREEKBED OCCURRED AT THE NORTHEAST CORNER OF THE PLAINTIFF'S PROPERTY WHEN THE DEFENDANT CITY CLEANED OUT THE CREEKBED AND THE DEFENDANT OCHINERO COMMENCED CONSTRUCTION OF THE CULVERT FOR THE DEFENDANTS WOODWARD AND NICHOLS. THE PHOTOGRAPHS INTRODUCED INTO EVIDENCE HERE AS DEFENDANT'S EXHIBIT G AND PLAINTIFFS'S EXHIBIT 3-C SHOW QUITE CLEARLY THAT A GREAT DEAL OF THE CREEKBED WAS REMOVED FROM THE CRITICAL AREA. THE COURT IS SATISFIED THAT IT IS MORE THAN COINCIDENCE THAT THE WIDENING AND EXTENSION OF THE CRACKS OCCURED DURING THE TIME THE CITY AND OCHINERO WERE INVOLVED WITH THE EXCAVATION OF THIS AREA. THE EVIDENCE DID INCATE THAT THE PLAINTIFF WAS LOSING SOME

OF HER SUPPORT FOR HER NORTH WALL OVER THE YEARS, BUT THE AMOUNT OF UNDERCUTTING AND LOSS OF SUPPORT DRAMATICALLY INCREASED AT THE TIME OF THE ACTIVITIES OF THE DEFENDANTS IN THIS AREA. THE VISUAL EXAMINATION MADE BY THE COURT OF THE COMPLETED WORK OF CONSTRUCTION MADE IT CLEAR THAT THE NORTHEAST CORNER OF PLAINTIFF"S WALL CONTINUES TO BE SUBJECTED TO SCOURING AND EROSION DURING TIMES OF HIGH WATER AS A RESULT OF THE DEFENDANTS'WCRK OF CONSTRUCTTION TO THE DETRIMENT OF PLAINTIFF IN MAINTAINING THE SUPPORT OF HER POOL APRON AND EQUIPMENT. THE WING WALL HAS THE OBVIOUS EFFECT OF ALLOWING ADDITIONAL AND PERHAPS DISASTROUS SCOURING AND EROSION OF THE SOIL UNDER PLAINTIFF'S RETAINING WALL AND POOL APRON.

THE COURT IS SATISFIED BY A PREPONDERANCE OF THE EVIDENCE THAT PLAINTIFF'S PROBLEMS WITH THE POOL APRON AND THE ACCELER-

ATED UNDERCUTTING OF HER WALL IS THE RESULT OF THE ACTIVITIES OF THE DEFENDANTS EXCAVATING AND CONSTRUCTION WORK AND THAT THE COST OF REPAIRS AND CONSTRUCTION TO STABILIZE THE SITUATION AS IT NOW EXISTS IS THE SUM OF $985.00 PLUS HER COSTS OF SUIT.

CC: MINTA H. REICHEL

CLYDE SMALL
CHARLES C. DAWSON, JR.
LAUGHLIN, CRAIG & CHRISTENSEN

/s/R.W. ABBE
R.W. ABBE JUDGE

SUPERIOR COURT OF THE STATE OF

CALIFORNIA FOR THE COUNTY OF SHASTA

MINTA H. REICHEL PLAINTIFF,	)	NO. 42361
VS	)	FINDINGS OF FACT AND CONCLUSIONS OF LAW
CITY OF REDDING, ET AL) DEFENDANTS.	)	

THE ABOVE-ENTITLED ACTION CAME ON REGULARLY FOR TRIAL ON APRIL 17, 1973, before THE ABOVE-ENTITLED COURT, SITTING WITHOUT A JURY, FRANKLIN CIBULA, OF THE LAW FIRM CIBULA & CIBULA, APPEARING ON BEHALF OF THE PLAINTIFF: CLYDE SMALL APPEARING ON BEHALF OF DEFENDANT CITY OF REDDING: MAYNARD CRAIG, OF THE LAW FIRM LAUGHLIN, CRAIG & CHRISTENSEN, APPEARING ON BEHALF OF DEFENDANT OCHINERO CONSTRUCTION COMPANY: AND ROLAND K. IVERSON, OF THE LAW FIRM RICH, FUIDGE, DAWSON, MARSH, SANBROOK & GROVE, APPEARING ON BEHALF OF DEFENDANT WOODWARD AND NICHOLS, AND THE COURT HAVING HEARD THE TESTIMONY AND HAVING EXAMINED

THE PROOFS OFFERED BY THE RESPECTIVE PARTIES, AND THE CAUSE HAVING BEEN SUBMITTED TO THE COURT FOR DECISION, AND THE COURT BEING FULLY ADVISED IN THE PREMISES, NOW MAKES ITS FINDINGS OF FACT AND CONCLUSIONS OF LAW AS FOLLOWS:

FINDINGS OF FACT

1. THAT IN THE LATE WINTER AND EARLY SPRING OF THE YEAR 1970, THE DEFENDANT CITY OF REDDING CLEANED OUT THE CREEK BED AND EXCAVATED A PART THEREOF IMMEDIATELY TO THE NORTH OF A CONCRETE WALL OF THE PLAINTIFF. SAID WALL IS NECESSARY FOR SUPPORTING PLAINTIFF'S LAND TO THE SOUTH OF SUCH WALL AND TO KEEP INTACT HER SWIMMING POOL AND APPURTENANCES.

2. THAT THE DEFENDANT OCHINERO CONSTRUCTION COMPANY CONSTRUCTED A CULVERT ON THE LANDS OF THE DEFENDANT NICHOLS AND WOODWARD IMMEDIATELY TO THE EAST OF PLAINT'S PROPERTY, WHICH WORK INCLUDED CONSIDERABLE

EXCAVATION OF THE CREEK BED AT THE NORTH-EAST CORNER OF PLAINTIFF'S PROPERTY. THIS WORK CONSTRUCTION WAS UNDERTAKEN IMMEDIATELY AFTER THE DEFENDANT CITY OF REDDING HAD DONE ITS WORK OF EXCAVATION AND CLEARING.

3. THE WORK UNDERTAKEN BY THE CITY OF REDDING AND BY OCHINERO CONSTRUCTION COMPANY ON BEHALF OF NICHOLS AND WOODWARD COMBINED TO CAUSE AN UNDERMINING OF THE PLAINTIFF's WALL, A SUBSISTENCE OF HER LAND AND LOSS OF SUPPORT.

4. THAT THE COMPLETED WORK OF CONSTRUCTON CONTINUES TO SUBJECT PLAINTIFF'S LAND TO SCOURING AND EROSION UNDERNEATH HER WALL TO THE DETRIMENT OF PLAINTIFF IN MAINTAIN(ING) THE SUPPORT OF HER POOL APRON AND EQUIPMENT WHICH IF NOT ABATED WILL RESULT IN FURTHER UNDERCUTTING AND EROSION, AND LOSS OF STABILITY AND FURTHER DAMAGE TO PLAINTIFF'S PROPERTY.

5. THAT PLAINTIFF"S DAMAGES AND COST

OF CONSTRUCTION OF ADEQUATE WORKS TO PREVENT FURTHER DAMAGE IS THE SUM OF $985.00.

CONCLUSIONS OF LAW

AS A CONCLUSION OF LAW FROM THE ABOVE FACTS, THE COURT FINDS THAT PLAINTIFF IS ENTITLED TO JUDGMENT IN THE TOTAL SUM OF $985.00 AGAINST ALL THE DEFENDANTS HEREIN, PLUS HER COSTS OF SUIT.

DATED THIS 25th DAY OF MAY, 1973

/s/ R.W. ABBE
JUDGE OF THE SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SHASTA

MINUTE BOOK 101 DEPT. II
PAGE 14 NON. R.W. ABBE
DATE JUNE 25, 1973

#42361

MINTA H. REICHEL,
PLAINTIFF,

VS

CITY OF REDDING, ET AL,
DEFENDANTS.

FILED JUNE 26, 1973

NATURE OF PROCEEDINGS - ORDER

THE COURT INADVERTENTLY NEGLECTED TO INDICATE THAT THE DOCUMENT SIGNED BY THE COURT AND FILED HEREIN MAY 25, 1973 WAS MERELY PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW AND IT WAS NOT THE INTENTION OF THE COURT TO SIGN THE FINAL FINDINGS AND CONCLUSIONS WITHOUT GIVING THE PARTIES AN OPPORTUNITY TO OBJECT AND TO BE HEARD ON THEIR OBJECTIONS REGARDING THE FINDINGS AND CONCLUSIONS. THE MEMORANDUM

OF DECISION MADE ON MAY 14, 1973 WAS MERELY A NOTICE OF INTENDED DECISION AND WAS NOT A JUDGMENT IN FAVOR OF PLAINTIFF.

A RE-EXAMINATION OF THE FACTS ESTABLISHED BY THE EVIDENCE AND THE LAW SATISFIES THE COURT THAT ITS ORIGINAL INTENTION TO FIND IN FAVOR OF PLAINTIFF AND AWARD HER DAMAGES IN THE SUM OF $985.00 WAS NOT SUPPORTED BY THE EVIDENCE AND WAS AGAINST THE LAW. IT IS UNFORTUNATE, OF COURSE, THAT AN ERROR WAS MADE, BUT IT IS OBVIOUSLY INCUMBENT UPON ME TO ADMIT THE ERROR, TO CHANGE THE DECISION, AND TO ENTER HEREIN THE ONLY DECISION THAT CAN BE JUSTIFIED PURSUANT TO LAW AND THE OVERWHELMING PREPONDERANCE OF THE EVIDENCE.

JUDGMENT SHALL BE ENTERED HEREIN IN FAVOR OF ALL DEFENDANTS AGAINST THE PLAINTIFF AND ALL OTHER ORDERS AND MEMORANDUM OF THE COURT CONTRARY TO THIS POSITION ARE HEREBY DECLARED INOPEATIVE. EACH PARTY SHALL

BEAR HIS OWN COSTS OF SUIT.

CC: MINTA H. REICHEL
CHARLES C. DAWSON, JR.
LAUGHLIN, CRAIG & CHRISTENSEN
CLYDE SMALL

/s/ R.W. ABBE,
R.W. ABBE, JUDGE

SUPERIOR COURT OF THE STATE OF

CALIFORNIA FOR THE COUNTY OF SHASTA

OCT. 12, 1973 HON. R.W. ABBE,

#42361

MINTA H. REICHEL,
PLAINTIFF,

VS

CITY OF REDDING, ET AL,
DEFENDANTS.

ORDER

THE REQUEST OF PLAINTIFF FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW, FILED HEREIN ON SEPTEMBER 28, 1973, IS DENIED. THE COURT ADVISES PLAINTIFF THAT FINDINGS OF FACT AND CONCLUSIONS OF LAW WILL NOT BE PREPARED IN THIS CASE.

CC; MINTA H. REICHEL, 3061 FULTON AVENUE SACRAMENTO,CA 95812
CLYDE SMALL, P.O. BOX 2256, REDDING,CA
MAYNARD CRAIG, P.O. BOX 676, CHICO, CA
ROLAND IVERSON, P.O. DRAWER A, MARYSville, ca 95901

/s/ R.W. ABBE
R.W. ABBE JUDGE

COURT OF APPEAL OF THE STATE OF CALIFORNIA

IN AND FOR THE THIRD APPELLATE DISTRICT

(SHASTA)

MINTA H. REICHEL, PLAINTIFF, APPELLANT AND CROSS APPELLANT VS CITY OF REDDING, A MUNICIPAL CORPORATION, DEFENDANT, RESPONDENT	3 CIVIL 14495 (SUP.CT.NO.42361) FILED MAY 23, 1975, COURT OF APPEAL 3rd DISTRICT- WILFRIED J. KRAMER, CLERK BY _____ DEPUTY
CITY OF REDDING, A MUNICIPAL CORPORATION, DEFENDANT, RESPONDENT AND CROSS-APPELLANT VS MINTA H. REICHEL, PLAINTIFF, APPELLANT AND CROSS-RESPONDENT	

BY THE COURT:

BASED PRINCIPALLY ON THE THEORY THAT DEFENDANTS WERE NEGLIGENT IN THE CLEARING OF CALABOOSE CREEK AND THE INSTALLATION AND CONSTRUCTION OF A CULVERT AND PARKING LOT ADJACENT TO HER PROPERTY, PLAINTIFF SOUGHT TO RECOVER FOR THE DAMAGE ALLEGELY RESULTING FROM SAID NEGLIGENCE TO HER

SWIMMING POOL, ITS COPING AND APRON, AND THE RETAINING WALL AND FENCE. THE TRIAL COURT FOUND FOR DEFENDANTS. PLAINTIFF APPEALS. THE CITY OF REDDING HAS FILED A CROSS APPEAL FROM THE JUDGMENT LIMITED TO THE DENIAL OF COST.

THE MAJOR THRUST OF PLAINTIFF'S APPEAL IS THAT THERE IS SUFFICIENT EVIDENCE THAT THE DEFENDANTS CAUSED THE DAMAGE TO HER PROPERTY. IT IS EVIDENT FROM THE ARGUMENT ADVANCED BY PLAINTIFF THAT SHE HAS OVER-LOOKED THE ELEMENTARY PRINCIPLE OF LAW THAT IN REVIEWING THE EVIDENCE ON AN APPEAL ALL CONFLICTS MUST BE RESOLVED IN FAVOR OF THE RESPONDENT AND ALL LEGITIMATE AND REASONABLE INFERENCES INDULGED TO UPHOLD THE JUDGMENT. (CRAWFORD V. SOUTHERN PACIFIC CO (1935) 3 CAL 2d 427, 429.) WHEN A JUDG-MENT IS "ATTACKED" AS BEING UNSUPPORTED BY THE EVIDENCE , AS IN THE INSTANT CASE, THE POWER OF THIS COURT BEGINS AND ENDS

WITH A DETERMINATION AS TO WHETHER THERE IS ANY SUBSTANTIAL EVIDENCE, CONTRADICTED OR UNCONTRADICTED, WHICH WILL SUPPORT THE CONCLUSION REACHED BY THE TRIER OF FACTS. (IBID.) MOREVER, WHEN TWO OR MORE INFERENCED CAN REASONABLY BE DEDUCED FROM THE FACTS, THIS COURT IS WITHOUT POWER TOSUBSTITUTE ITS DEDUCTIONS FOR THOSE OF THE TRIAL COURT. (IBID).

ADDITIONALLY, IN RESOLVING THE ISSUE O F THE SUFFICIENCY OF THE EVIDENCE, WE ARE BOUND BY THE ESTABLISHED RULE OF APPELLATE REVIEW THAT WE MUST VIEW THE FACTS MOST FAVORABLE TO THE PREVAILING PARTY AND IN SUPPORT OF THE JUDGMENT. (NESTLE V CITY OF SANTA MONICA (1972) 6 CAL. 3d 920, 925).) THAT IS, WE LOOK ONLY AT THE EVIDENCE SUPPORTING THE SUCCESSFUL PARTY AND DISREGARD EVIDENCE TO THE CONTRARY. (IBID.) WE INCORPORATE BY REFERENCE HEREIN THE FACTS AS SET FORTH IN RESPONDENTS' BRIEF AT PAGES 7 THROUGH 13 WHICH SUBSTANTIALLY SUPPORT

THE JUDGMENT.

CONTRARY TO THE ARGUMENT ADVANCED BY PLAINTIFF, SINCE THE TRIAL COURT IMPLICITLY FOUND THAT DEFENDANTS WERE NOT NEGLIGENT AND THAT THE CLEARING OF THE CREEK AND THE INSTALLATION AND CONSTRUCTION OF THE CUL-VERT VERT AND PARKING LOT WERE NOT THE PROXIMATE CAUSE OF THE DAMAGE TO PLAINT-IFFS PROPERTY AND THE APPURTENANCES THERE-TO, DEFENDANTS WOULD NOT BE LIABLE UNDER EITHER THE THEORY OF INVERSE CONDEMNATION OR UNDER CIVIL CODE SECTION 832[1]. (SEE HOLTZ V SUPERIOR COURT (1970) 3 CAL. 3d 296 296, 300 ET SEQ., BLAU V CITY OF LOS ANGELES (1973) 32 CAL. APP. 3d 77, 84-84; MARIN

1. PLAINTIFF ASKS THIS COURT TO EXAMINE PARTICULARLY THE PHOTOGRAPHIC EVIDENCE. THESE PHOTOGRAPHS MERELY ESTABLISH THE FACT THAT THERE ARE WIDE CRACKS IN THE COPING AND APRON AROUND THE SWIMMING POOL THAT THE FENCE IS TILTED, AND THAT THE B BASE OF THE RETAINING WALL IS EXPOSED. THEY DO NOT, HOWEVER, ESTABLISH THE NEG-LIGENCE OF THE DEFENDANT, OR SHOW THAT ANY OF THEIR ACTIVITIES WERE THE PROX-IMATE CAUSE OF SAID CONDITION OF PLAIN-TIFF'S PROPERTY WHICH IS ESSENTIAL TO ESTABLISH LIABILITY.

MUN. WATER DIST. V. NORTHWESTERN PAC. R.R. CO. (1967)253 CAL.APP. 2d 83, 91,92; co. (1967) 253 CAL. APP. 2D 83, 91-92; WHARAM V. INVESTMENT UNDERWRITERS (1943) 58 CAL. APP. 2d 346,.349.)

THERE IS NO MERIT TO PLAINTIFF'S CONTENTION TO THE EFFECT THAT THE TRIAL COURT ABUSED ITS DISCRETION IN GRANTING THE REQUEST OF PLAINTIFF'S ATTORNEY TO WITHDRAW AS COUNSEL OF RECORD PRIOR TO ENTRY OF JUDGMENT. THE COURT MAY AT ANY TIME BEFORE JUDGMENT OR FINAL DETERMINATION GRANT AN APPLICATION BY AN ATTORNEY TO WITHDRAW FROM A CASE AS ATTORNEY OF RECORD. (CODE CIV. PRO., §284.) THE RECORD REFLECTS THAT THE COURT NOT ONLY FOUND THAT THE RELATIONSHIP BETWEEN PLAINTIFF AND HER ATTORNEY HAD DETERIORATED TO THE POINT THAT NEITHER WISHED TO BE ASSOCIATED WITH THE OTHER IN ANY WAY, BUT ALSO THAT PLAINTIFF HAD CONCURRED IN THE COURRT'S GRANTING HER ATTORNEY'S REQUEST FOR WITHDRAWAL.

WE DO FIND THAT THE TRIAL COURT ERRED IN NOT AWARDING COSTS TO THE CROSS-APPELLANT, THE CITY OF REDDING. PURSUANT TO CODE OF CIVIL PROCEDURE SECTIONS 998 AND 1032 the DEFENDANT CITY OF REDDING WAS ENTITLED TO COSTS AS A MATTER OF COURSE FROM THE TIME DEFENDANT (ALONG WITH THE OTHER DEFENDANTS) FILED ITS OFFER TO COMPROMISE ON OCTOBER 27, 1972. WHETHER OR NOT THE CITY OF REDDING IS TO RECEIVE COSTS FROM THE DATE OF THE FILING OF THE COMPLAINT AND FOR THE COSTS OF THE SERVICES OF EXPERT WITNESSES IS WITHIN THE DISCRETION OF THE COURT.(CODE OF CIV. PRO. §§ 998.)

WE REMAND THE CAUSE IN ORDER THAT THE TRIAL COURT MAY EXCERCISE IT'S DISCRETION ON THIS MATTER AND TO DETERMINE THE AMOUNT DUE THE CITY OF REDDING BY WAY OF COSTS FROM THE DATE OF THE OFFER TO COMPROMISE. THE JUDGMENT IS AFFIRMED IN ALL OTHER RESPECTS. FOR THE COURT--PUGLIA,REGAN,EVANS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SHASTA

NO, 121 HONORABLE R.W. ABBE
AUG. 20, 1976
#54513

MINTA H. REICHEL,
PLAINTIFF,

VS

CITY OF REDDING, ET AL,
DEFENDANTS.

RULING ON DEMURRERS

FOR THE SAME REASONS AS SET FORTH IN THE RULING ON DEMURRER MADE HEREIN ON JUNE 24, 1976, THE DEMURRER OF THE CITY OF REDDING IS SUSTAINED WITHOUT LEAVE TO AMEND.

MINTA H. REICHEL, P,P. BOX 2304 REDDING, VA, 96001

EARL D. MURPHY, CITY HALL, 760 PARKVIEW AVE., REDDING, CA 96001

/s/ R.W. ABBE, JUDGE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SHASTA

NO. 120 HONORABLE R.W.ABBE,JUDGE
JUNE 24, 1976
#54513

MINTA H. REICHEL
PLAINTIFF

VS

CITY OF REDDING, et al,
DEFENDANTS.

RULING ON DEMURRERS

THE DEMURRERS OF DEFENDANTS OCHINERO CONSTRUCTION COMPANY, INC., A CORPORATION, EDWARD H. OCHINERO, BEATRICE OCHINERO, WOODWARD & NICHOLS, TAMMY NICHOLS ARE SUSTAINED WITHOUT LEAVE TO AMEND.

THE SUSTAING OF THE DEMURRERS WITHOUT LEAVE TO AMEND IS MADE ON THE GROUNDS THAT THE COMPLAINT HEREIN DOES NOT STATE FACTS SUFFICIENT TO CONSTITUTE A CAUSE OF ACTION IN THAT IT IS BARRED UNDER THE DOCTRINES OF RES JUDICATA AND COLLATERAL ESTOPPEL BY THE FINAL DETERMINATION OF THE PRIOR LITI-

GATION BY THE PLAINTIFF AGAINST THESE DEFENDANTS IN ACTION #42361 SHASTA COUNTY CALIFORNIA.

THE COURT DOES HEREBY TAKE JUDICIAL NOTICE OF ALL THE COURT RECORDS IN SAID ACTION #42361. THE INSTANT COMPLAINT ARISES FROM THE SAME FACTUAL SITUATION AS THE PRIOR SUIT AND THEREFORE AS STATED IN KRONKRIGHT VS GARDNER, 31C@d214 "THE FACT THAT DIFFERENT FORMS OF RELIEF WERE SOUGHT IS HERE IRRELEVANT. WERE THE RULE OTHERWISE, LITIGATION FINALLY WOULD END ONLY WHEN A PARTY RAN OUT OF COUNSEL WHOSE KNOWLEDGE AND IMAGINATION COULD CONCEIVE OF DIFFERENT THEORIES OF RELIEF BASED UPON THE SAME FACTUAL BACKGROUND."

IN SUTPHIN VS SPEIK, 15C2d195, THE RULE IS STATED AS FOLLOWS: "IF THE MATTER WAS WITHIN THE SCOPE OF THE ACTION, RELATED TO THE SUBJECT MATTER AND RELEVANT TO THE SUBJECT MATTER AND RELEVANT TO THE

ISSUES, SO THAT IT COULD HAVE BEEN RAISED, THE JUDGMENT IS CONCLUSIVE ON IT DESPITE THE FACT THAT IT WAS NOT IN FACT EXPRESSLY PLEADED OR OTHERWISE URGED. HENCE THE RULE IS THAT THE PRIOR JUDGMENT IS RES JUDICATA ON MATTERS WHICH WERE RAISED OR COULD HAVE BEEN RAISED ON MATTERS LITIGATED OR LITIGABLE."

COUNSEL FOR DEFENDANTS SHALL PREPARE JUDGMENT OF DISMISSAL HEREIN IN FAVOR OF THEIR CLIENTS.

MINTA H. REICHEL, 1945 SHASTA ST., REDDING CALIFORNIA
LAUGHLIN, CRAIG & CHRISTENSEN, 45 MAIN ST CHICO, CA 95926

RICH FUIDGE, MARSH & MORRIS, INC., P.O. DRAWER "A" MARYSVILLE, CA 95901

/s/ R. W. ABBE JUDGE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SHASTA

NO. 118

NO. 3, 1977 HONORABLE R.W. ABBE

#58025

MINTA H. REICHEL,
PLAINTIFF,

VS

CITY OF REDDING, ET AL,
DEFENDANTS.

THE DEMURRERS OF DEFENDANTS ARE SUSTAINED WITHOUT LEAVE TO AMEND ON THE FOLLOWING GROUNDS:

1. THE COMPLAINT HEREIN DOES NOT STATE FACTS USFFICIENT TO CONSTITUTE A CAUSE OF ACTION IN THAT IT IS BARRED UNDER THE DOCTRINE OF RES JUDICATA AND/OR COLLATERAL ESTOPPEL BY THE FINAL DETERMINATION OF THE PRIOR LITIGATION IN THE ACTION ENTITLED MINTA H. REICHEL VS CITY OF REDDING, ET AL SHASTA COUNTY ACTION NO 42361.

2. THE COMPLAINT HEREIN DOES NOT

STATE FACTS SUFFICIENT TO CONSTITUTE A CAUSE OF ACTION IN THAT IT IS BARRED UNDER THE DOCTRINE OF RES JUDICATA AND/OR COLLATERAL ESTOPPEL BY THE PRIOR LITIGATION IN THE ACTION ENTITLED MINTA H. REICHEL VS CITY OF REDDING, ET AL, SHASTA COUNTY ACTION NO. 54513.

3.THERE IS ANOTHER ACTION PENDING BETWEEN THE SAME PARTIES ON THE SAME CAUSE OF ACTION, TO-WIT, SHASTA COUNTY NO 54513 WHICH ACTION IS PRESENTLY PENDING BEFORE THE COURT OF APPEALS FOR THE THIRD APPELLATE DISTRICT PURSUANT TO PLAINTIFF'S APPEAL FROM THE JUDGMENT OF DISMISSAL FOLLOWING THE SUSTAINING OF A DEMURRER WITHOUT LEAVE TO AMEND BY THE SHASTA COUNTY SUPERIOR COURT.

MINTA H. REICHEL,P.O. BOX 2304,REDDING CA

RICH FUIDGE, MARSH, MORRIS,ATTORNEYS AT LAW P.O. DRAWER A, MARYSVILLE, CA 95901
TOCHER & GAZZIGLI, ATTORNEYS AT LAW, P.O. BOX 2256, REDDING, CA 96001
LAUGHLIN CRAIG & CHRISTENSEN, ATTORNEYS AT LAW, 45 MAIN ST., CHICO, CA 95926
/s/ HONORABLE R.W. ABBE, JUDGE

APP-T, 68a

IN THE

COURT OF APPEAL OF THE STATE OF CALIFORNIA

IN AND FOR THE

THIRD APPELLATE DISTRICT

(FILED SEP 23, 1977)

MINTA H. REICHEL — 3 CIVIL 16644

VS — SHASTA 54512

ALVIN M. CIBULA

BY THE COURT:

APPELLANT'S APPLICATION FOR COURT ORDER FOR CORRECTION OF ALLEGED CLERK'S ERROR IS DENIED. THE APPEAL FILED FEBRUARY 15, 1977 AND THE APPEAL FILED MARCH 21, 1977 FROM JUDGMENT AND ORDER GRANTING REQUEST TO EXPUNGE LIS PENDENS IN SHASTA COUNTY NO. 54512 ARE DISMISSES AS NON-APPEALABLE. (C.C.P. SECTION 490.4). CONSIDERING THE MATTER AS A PETITION FOR WRIT OF MANDATE, THE PETITION IS DENIED.

DATE:SEPTEMBER 23, 1977

PUGLIA, P.J.

CC: MINTA H. REICHEL
PRESLEIGH, AREL & DUNLAP

OFFICE OF THE CLERK, COURT OF APPEAL

THIRD APPELLATE DISTRICT, STATE OF CALIF.

JUNE 29, 1977

MINTA H. REICHEL
P.O. BOX 2304
REDDING, CA 96001

RE: 3 CIVIL 16668
3 CIVIL 16705
REICHEL V CITY OF REDDING

DEAR MS. REICHEL

WE HAVE RECEIVED YOUR LETTER OF JUNE 26, 1977, AND THE MOTION TO AUGMENT RECORD IN 3 CIVIL 16263.

AS TO THE APPEALS IN 3 CIVIL 16668 AND 3 CIVIL 16705, WHEN WE RECEIVED THE RECORD FROM THE SHASTA COUNTY CLERK, IT APPEARED THAT BOTH APPEALS ARE INCLUDED IN SINGLE RECORD. WE HAVE THEREFORE ASSIGNED THE NUMBER 3 CIVIL 16668 TO BOTH THE APPEAL FROM THE DENIAL OF THE MOTION TO VACATE THE DISMISSAL AND THE APPEAL FROM DENIAL OF A WRIT OF MANDATE. ALL FUTURE FILINGS MUST BEAR THE NUMBER 3 CIVIL 16668.

THE RECORD WAS RETURNED TO THE SHATA COUNTY CLERK BECAUSE IT DID NOT INCLUDE ANY ORDER OF THE SUPERIOR COURT DENYING YOUR PETITION FOR WRIT OF MANDATE HAS BEEN ORDERED.

WE HAVE TALKED TO THE SHASTA COUNTY CLERK AND REQUESTED THEM TO RETRANSMIT THE RECORD TO US EVEN THOUGH THE APPEAL AS TO LAW LIBRARY PRIVILEGES APPEARS TO BE PREMATURE UNTIL SUCH TIME AS THE COURT ACTS ON YOUR PETITION FOR MANDATE.

VERY TRULY YOURS,

/s/ WILFRIED J. KRAMER
CLERK

WJK;sw

CC:SHASTA COUNTY CLERK

CC: ALL COUNSEL

APP-V, 71a

IN THE

COURT OF APPEAL OF THE STATE OF CALIFORNIA

IN AND FOR THE

THIRD APPELLATE DISTRICT

FILED AUG 31, 1977

MINTA H. REICHEL, 3 CIVIL 16668

V SHASTA 54513

CITY OF REDDING

BY THE COURT:

THE PETITION FOR WRIT OF MANDATE ATTACHED TO APPELLANT'S OPENING BRIEF IS STRIKEN FROM THE FILE ON THE COURT'S OWN MOTION BECAUSE SUCH PETITION MAY NOT BE INCLUDED WITH APPELLANT'S OPENING BRIEF. IN ADDITION, THE PETITION IS NOT VERIFIED AND A FEE FOR A PETITION FOR FOR WRIT OF MANDATE.

DATED AUGUST 31, 1977

/s/ PUGLIA
PUGLIA, P.J.

CC: MINTA H. REICHEL, P.O. BOX 2304 REDDING,CA
EARL D. MURPHY, 760 PARKVIEW AVE. REDDING
LAUGHLIN, CRAIG & CHRISTENSEN, CHICO,CA
RICH FUIDGE, MARSH, MORRIS, MARYSVILLE,CA

IN THE
COURT OF APPEAL OF THE STATE OF CALIFORNIA
IN AND FOR THE
THIRD APPELLATE DISTRICT

FILED SEP 23, 1977

MINTA H. REICHEL 3 CIVIL 16668

v SHASTA 54513

CITY OF REDDING

BY THE COURT:

APPELLANT'S APPLICATION FOR REVIEW OF APPELLATE COURT'S MOTION TO STRIKE PETITION FOR WRIT OF AMNDATE FROM HER OPENING BRIEF ON APPEAL IS TREATED AS A PETITION FOR REHEARING AND DENIED. THE APPEAL FROM DENIAL OF MOTION TO VACATE AND DISMISS JUDGMENT FILED FEBRUARY 15, 1977 AND THE APPEAL BY PETITION FOR WRIT OF MANDATE FILED FEBRUARY 15, 1977 IN SHASTA COUNTY NO. 54513 ARE DISMISSED AS NON-APPEALABLE.

DATED: SEPTEMBER 23, 1977

PUGLIA, P.J.

CC MINTA H. REICHEL, EARL D. MURPHY
RICH, FUIDGE, MARSH & MORRIS,
LAUGHLIN, CRAIG & CHRISTENSEN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SHASTA

MINUTE BOOK II HON. CLYDE SMALL JUDGE

PAGE 52 V.VAUGHAN - DEP. CLK.

DATE JULY 6, 1976

#54512

MINTA H. REICHEL,
PLAINTIFF

VS

FRANKLIN S. CIBULA ET AL
DEFENDANTS.

NATURE OF PROCEEDINGS MOTION TO QUASH

PLAINTIFF APPEARING IN PROPRIA PERSONA, FRANKLIN S. CIBULA, OF THE LAW FIRM OF CIBULA & CIBULA, APPEARING ON BEHALF OF THE DEFENDANTS, MR. CIBULA ADDRESSES THE COURT AND ADVISES THAT VALID SERVICE HAS BEEN MADE, SUBSEQUENT TO FILING OF DEFENDANTS MOTION TO QUASH.

PLAINTIFF ADDRESS THE COURT. THE COURT ADMONISHES PLAINTIFF AS TO THE USE OF THE LAW LIBRARY.

UPON PLAINTIFF'S ACKNOWLEDGMENT THAT

SERVICE WAS NOT ACCOMPLISHED WHEN THE DOCUMENTS WERE MAILED ON MAY 19, 1976,

THE COURT ORDERS THAT THE MOTION TO QUASH SERVICE IS NOW MOOT AND IS DROPPED FROM THE CALENDAR.

CC: MINTA H. REICHEL
P.O. BOX 2304
REDDING, CA 96001

CIBULA & CIBULA

/s/ CLYDE SMALL
CLYDE SMALL JUDGE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SHASTA

MINUTE BOOK II
PAGE 206
DATE JULY 26, 1976

HON. CLYDE SMALL, JUDGE
R. NELSON, DEP. SHERRIF
V. VAUGHAN, DEP. CLERK
A. PETERSON, REPORTER

#54512

MINTA H. REICHEL,
PLAINTIFF,

VS

FRANKLIN S. CIBULA, ET AL
DEFENDANTS

NATURE OF PROCEEDINGS DEMURRER

PLAINTIFF APPEARING IN PROPRIA PERSONNA AND FRANKLIN S. CIBULA, OF THE LAW FIRM OF CIBULA & CIBULA, APPEARING ON BEHALF OF DEFENDANTS, THE COURT DECLINES TO HEAR ANY MATTER IN WHICH A MEMBER OF THE LOCAL BAR ASSOCIATION IS A LITIGANT, AND

THE COURT ORDERS THAT HEARING ON THE DEMURRER TO THE COMPLAINT IS CONTINUED TO MONDAY, AUGUST 16, 1976, AT 9:00 AM IN-----"

THIS DEPARTMENT, AT WHICH TIME JUDGE

CURTISS E. WETTER WILL BE PRESIDING.

CC: MINTA H. REICHEL
P.O. BOX 2304
REDDING, CA 96001

CIBULA & CIBULA

"42 U.S.C. §1983. CIVIL ACTION FOR DEPRIVATION OF RIGHTS.

EVERY PERSON WHO, UNDER COLOR OF ANY STATUTE, ORDINANCE, REGULATION, CUSTOM, OR USAGE, OF ANY STATE OR TERRITORY, SUBJECTS, OR CAUSES TO BE SUBJECTED, ANY CITIZEN OF THE UNITED STATES OR OTHER PERSON WITHIN THE JURISDICTION THEREOF TO THE DEPRIVATION OF ANY RIGHTS, PRIVILEGES, OR IMMUNITIES SECURED BY THE CONSTITUTION AND LAWS, SHALL BE LIABLE TO THE PARTY INJURED IN AN ACTION AT LAW, SUIT IN EQUITY OR OTHER PROPER PROCEEDING FOR REDRESS.

42 U.S.C. §1985(2)(3)

42 U.S.C. §1985. CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS --PREVENTING OFFICER FROM PERFORMING DUTIES.

(I) --------(DOES NOT APPLY)

(2) IF TWO OR MORE PERSONS IN ANY STATE OR TERRITORY CONSPIRE TO DETER, BY FORCE, INTIMIDATION, OR THREAT, ANY PARTY OR WIT-

NESS IN ANY COURT OF THE UNITED STATES FROM ATTENDING SUCH COURT OR FROM TESTIFYING TO ANY MATTER PENDING THEREIN, FREELY, FULLY, AND TRUTHFULLY, OR TO INJURE SUCH PARTY OR WITNESS IN HIS PERSON OR PROPERTY ON ACCOUNT OF HIS HAVING SO ATTENDED OR TESTIFIED,OR TO INFLUENCE THE VERDICT, PRESENTMENT,----------; OR IF TWO OR MORE PERSONS CONSPIRE FOR THE PURPOSE OF IMPEDDING, HINDERING, OBSTRUCTING OR DEFEATING, IN ANY MANNER, THE DUE COURSE OF JUSTICE IN ANY STATE OR TERRITORY, WITH INTENT TO DENY TO ANY CITIZEN THE EQUAL PROTECTION OF THE LAWS, OR TO INJURE HIM OR HIS PROPERTY FOR LAWFULLY ENFORCING, OR ATTEMPTING TO ENFORCE, THE RIGHT OF ANY PERSON, OR CLASS OF PERSONS, TO THE EQUAL PROTECTION OF THE LAWS:

(3)IF TWO OR MORE PERSONS IN ANY STATE OR TERRITORY CONSPIRE -----OR ON THE PREMISES OF ANOTHER, FOR THE PURPOSE OF DEPRIVING,

EITHER DIRECTLY OR INDIRECTLY, ANY PERSON OR CLASS OF PERSONS OF THE EQUAL PROTECT-TION OF THE LAWS, OR OF EQUAL PRIVILEGES AND IMMUNITIES UNDER THE LAWS; OR FOR THE PURPOSE OF PREVENTING OR HINDERING THE CONSTITUTED AUTHORITIES OF ANY STATE OR TERRITORY FROM GIVING OR SECURING TO ALL PERSONS WITHIN SUCH STATE OR TERRITORY THE EQUAL PROTECTION OF THE LAWS; ------ IN ANY CASE OF CONSPIRACY SET FORTH IN THIS SECTION, IF ONE OR MORE PERSONS ENGAGED THEREIN DO, OR CAUSE TO BE DONE, ANY ACT IN FURTHERANCE OF THE OBJECT OF SUCH CONS-PIRACY, WHEREBY ANOTHER IS INJURED IN HIS PERSON OR PROPERTY, OR DEPRIVED OF HAVING AND EXERCISING ANY RIGHT OR PRIVILEGE OF A CITIZEN OF THE UNITED STATES THE PARTY SO INJURED OR DEPRIVED MAY HAVE AN ACTION FOR THE RECOVERY OF DAMAGES, OCCASIONED BY SUCH INJURY OR DEPRIVATION, AGAINST ANY ONE OR MORE OF THE CONSPIRATORS."

42 U.S.C. §1986 ACTION FOR NEGLECT TO PREVENT.

EVERY PERSON WHO, HAVING KNOWLEDGE THAT ANY OF THE WRONGS CONSPIRED TO BE DONE, AND MENTIONED IN SECTION 1985 OF THIS TITLE ARE ABOUT TO BE COMMITTED, AND HAVING POWER TO PREVENT OR AID IN PREVENTING THE COMMISSION OF THE SAME, NEGLECTS OR REFUSES SO TO DO,IF SUCH WRONGFUL ACT BE COMMITTED, SHALL BE LIABLE TO THE PARTY INJURED, OR HIS LEGAL REPRESENTATIVES, FOR ALL DAMAGES CAUSED BY SUCH WRONGFUL ACT, WHICH SUCH PERSON BY REASONABLE DILIGENCE COULD HAVE PREVENTED; AND SUCH DAMAGES MAY BE RECOVERED IN AN ACTION ON THE CASE; AND ANY NUMBER OF PERSONS GUILTY OF SUCH WRONGFUL NEGLECT OR REFUSAL MAY BE JOINED AS DEFENDANTS IN THE ACTION; ----------BUT NO ACTION UNDER THE PROVISIONS OF THIS SECTION SHALL BE SUSTAINED WHICH IS NOT COMMENCED WITHIN ONE YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.

42 U.S.C. §1988 - PROCEEDINGS IN VINDICATION OF CIVIL RIGHTS; ATTORNEY'S FEES

THE JURISDICTION IN CIVIL AND CRIMINAL MATTERS CONFERRED ON THE DISTRICT COURTS BY THE PROVISIONS OF THIS TITLE, ANF TITLE "CIVIL RIGHTS," AND OF TITLE"CRIMES," FOR THE PROTECTION OF ALL PERSONS IN THE UNITED STATES IN THEIR CIVIL RIGHTS, AND FOR THEIR VINDICATION, SHALL BE EXERCISED AND ENFORCED IN CONFORMITY WITH THE LAWS OF THE UNITED STATES, SO FAR AS SUCH LAWS ARE SUITABLE TO CARRY THE SAME INTO EFFECT; BUT IN ALL CASES WHERE THEY ARE NOT ADAPTED TO THE OBJECT,OR ARE DEFICIENT IN THE PROVISIONS NECESSARY TO FURNISH SUITABLE REMEDIES AND PUNISH OFFENSES AGAINST LAW, THE COMMON LAW, AS MODIFIED AND CHANGED BY THE CONSTITUTION AND STATUTES OF THE STATE WHEREIN THE COURT HAVING JURISDICTION OF SUCH CIVIL OR CRIMINAL CAUSE IS HELD, SO FAR AS THE SAME IS NOT INCONSISTENT WITH THE CONSTITUTION AND LAWS OF THE UNITED STATES,

SHALL BE EXTENDED TO AND GOVERN THE SAID CCOURTS IN THE TRIAL AND DISPOSITION OF THE CAUSE, AND, IF IT IS OF A CRIMINAL N NATURE, IN THE INFLICTION OF PUNISHMENT ON THE PARTY FOUND GUILTY. IN ANY ACTION OR PROCEEDING TO ENFORCE A PROVISION OF SECTIONS 1981, 1982, 1983, 1985, and 1986 OF THIS TITLE, TITLE IX OF PUBLIC LAW 92-$L*, OR TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, THE COURT IN ITS DISCRETION, MAY ALLOW THE PREVAILING PARTY, OTHER THAN THE UNITED STATES, A REASONABLE ATTORNEY'S FEE AS PART OF THE COSTS.

"42 U.S.C. §2000a- PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION IN PLACES OF PUBLIC ACCOMODATION--EQUAL ACCESS

(a) ALL PERSONS SHALL BE ENTITLED TO THE FULL AND EQUAL ENJOYMENT OF THE GOODS, SERVICES, FACILITIES, PRIVILEGES, ADVANTAGES AND ACCOMMODATIONS OF ANY PLACE OF PUBLIC ACCOMODATION, AS DEFINED IN THIS SECTION, WITHOUT DISCRIMINATION OR SEGREGATION ON THE GROUND OF RACE, COLOR, RELIGION, OR NATIONAL ORIGIN.(EMPHSIS ADDED).

ESTABLISHMENTS AFFECTING INTERSTATE COMMERCE OR SUPPORTED IN THEIR ACTIVITIES BY STATE ACTION AS PLACES OF PUBLIC ACCOMODATION:-------PLACES OF EXHIBITION OR ENTERTAINMENT; OTHER COVERED ESTABLISHMENTS

(b) EACH OF THE FOLLOWING ESTABLISHMENTS WHICH SERVES THE PUBLIC IS A PLACE OF PUBLIC ACCOMODATION WITHIN THE MEANING OF THIS SUB-CHAPTER IF ITS OPERATIONS AFFECT COMMERCE, OR IF DISCRIMINATION OR SEGREGA-

TION BY IT IS SUPPORTED BY STATE ACTION:
(4)ANY ESTABLISHMENT (A)(i)WHICH IS PHYSICALLY LOCATED WITHIN THE PREMISES OF ANY ESTABLISHMENT OTHERWISE COVERED BY THIS SUBSECTION, OR (ii)WITHIN THE PREMISES OF WHICH IS PHYSICALLY LOCATED ANY SUCH COVERED ESTABLISHMENT, AND (B) WHICH HOLDS ITSELF OUT AS SERVING PATRONS OF SUCH COVERED ESTABLISHMENT,
(c) THE OPERATIONS OF AN ESTABLISHMENT AFFECT COMMERCE WITHIN THE MEANING OF THIS SUBCHAPTER IF -------(4) OF SUBSECTION (b) OF THIS SECTION, IT IS PHYSICALLY LOCATED WITHIN THE PREMISES OF, OR THERE IS PHYSICALLY LOCATED WITHIN ITS PREMISES, AN ESTABLISHMENT THE OPERATIONS OF WHICH AFFECT COMMERCE WITHIN THE MEANING OF THIS SUBSECTION. FOR PURPOSES OF THIS SECTION, "COMERCE" MEANS ----- OR COMMUNICATION AMONG THE SEVERAL STATES, OR BETWEEN THE DISTRICT OF COLUMBIA AND ANY STATE, -----"

"42 U.S.C. §2000a-1. PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION REQUIRED BY ANY LAW, STATUTE, ORDINANCE, REGULATION, RULE OR ORDER OF A STATE OR STATE AGENCY

ALL PERSONS SHALL BE ENTITLED TO BE FREE, AT ANY ESTABLISHMENT OR PLACE, FROM DISCRIMINATION OR SEGREGATION OF ANY KIND ON THE GROUND OF RACE, COLOR, RELIGION, OR NATIONAL ORIGIN, IF SUCH DISCRIMINATION OR SEGREGATION IS OR PURPORTS TO BE REQUIRED BY ANY LAW, STATUTE, ORDINANCE, REGULATION, RULE, OR ORDER OF A STATE OR ANY AGENCY OR POLITICAL SUBDIVISION THEREOF."

CALIFORNIA BUSINESS AND PROFESSIONS CODES:

"SECTION 6301: CONSTITUTION OF BOARDS

A BOARD OF LAW LIBRARY TRUSTEES IS CONSTITUTED AS FOLLOWS:(a) IN A COUNTY WHERE THERE ARE NO MORE THAN THREE JUDGES OF THE SUPERIOR COURT, EACH OF SUCH JUDGES IS EX OFFICIO A TRUSTEE; IN A COUNTY WHERE THERE ARE MORE THAN THREE JUDGES OF THE SUPERIOR COURT THE JUDGES OF THE COURT SHALL ELECT THREE OF THEIR NUMBER TO SERVE AS TRUSTEES. HOWEVER, WHERE THERE ARE NO MORE THAN THREE JUDGES OF THE SUPERIOR COURT, THE JUDGES MAY AT THEIR OPTION SELECT ONLY ONE OF THEIR NUMBER TO SERVE AS A TRUSTEE IN SUCH EVENT THEY SHALL APPOINT TWO ADDITIONAL TRUSTEES WHO ARE NEMBER OF THE BAR OF THE COUNTY. ANY JUDGE WHO IS AN EX OFFICIO OR ELECTED MEMBER MAY AT HIS OPTION DESIGNATE A MEMBER OF THE BAR OF THE COUNTY TO ACT FOR HIM AS TRUSTEE(EMPHASIS ADDED.)

((b) NOT APPLICABLE

(c) THE CHAIRMAN OF THE BOARD OF SUPERVISORS IS EX OFFICIO A TRUSTEE, BUT THE BOARD OF SUPERVISORS AT THE REQUEST OF THE CHAIRMAN MAY APPOINT A MEMBER OF THE BAR OF THE COUNTY OR ANY OTHER MEMBER OF THE BOARD OF SUPERVISORS OF THE COUNTY TO SERVE AS TRUSTEE IN PLACE OF SAID CHAIRMAN. THE APPOINTMENT OF THE PERSON SELECTED IN LIEU OF THE CHAIRMAN OF THE BOARD OF SUPERVISORS SHALL EXPIRE WHEN A NEW CHAIRMAN OF THE BOARD OF SUPERVISORS IS SELECTED AND SUCH APPOINTMENT SHALL NOT BE SUBJECT TO THE PROVISIONS OF SECTION 6302.

(d) THE BOARD OF SUPERVISORS SHALL APPOINT AS MANY ADDITIONAL TRUSTEES, WHO ARE MEMBERS OF THE BAR OF THE COUNTY, AS MAY BE NECESSARY TO CONSTITUTE A BOARD OF FIVE MEMBERS IN ANY COUNTY WHICH A MUNICIPAL COURT HAS NOT BEEN ESTABLISHED, OR OF SIX MEMBERS IN ANY WHERE THE MUNICIPAL COURTS HAVE ELECTED ONE MEMBER, OR OF SEVEN MEMBERS IN ANY COUNTY WHERE THE MUNICIPAL

COURTS HAVE ELECTED TWO MEMBERS TO SERVE AS TRUSTEES.

SECTION 6302 APPOINTMENTS OF TRUSTEES

APPOINTMENTS OF TRUSTEES WHICH ARE TO BE MADE BY THE BOARD OF SUPERVISORS OF THE COUNTY SHALL BE MADE AT THE FIRST MEETING OF THE BOARD OF SUPERVISORS AFTER THE ESTABLISHMENT OF A LAW LIBRARY IN THE COUNTY THE APPOINTEES TO SERVE UNTIL THE FIRST MEETING OF THE BOARD OF SUPERVISORS IN THE SUCCEEDING JANUARY. THE BOARD SHALL, AT ANY SUCH MEETING IN EACH SUCCEEDING JANUARY, APPOINT SUCH TRUSTEES TO SERVE FOR THE TERM OF ONE YEAR.

SECTION 6320 DISPOSITION OF MONEYS

ALL MONEY COLLECTED FOR THE LAW LIBRARY IN EACH COUNTY, MUST BE DEPOSITED WITH THE TREASURER OF THE COUNTY, WHO MUST KEEP THE SAME SEPARATE AND APART IN A TRUST FUND OR TRUST ACCOUNT, TO BE DISBURSED BY THE BOARD OF LAW LIBRARY TRUSTEES. MONEY MAY BE DISBURSED ONLY AS IN THIS CHAPTER

PROVIDED, AND ONLY FOR THE PURPOSES HEREIN AUTHORIZED. (EMPHASIS ADDED)

WHENEVER A LAW LIBRARY AND A BOARD OF TRUSTEES TO GOVERN THE SAME, IS IN EXISTENCE UNDER THE PROVISIONS OF ANY LAW, OTHER THAN THE LAW SUPERSEDED BY THIS CHAPTER, IN ANY COUNTY, OR CITY AND COUNTY, OR CITY AND COUNTY, IN THIS STATE, MONEY SO COLLECTED SHALL BE PAID INTO THE HANDS OF THOSE, AND IN THE MANNER, PROVIDED BY SUCH LAW.

SECTION 6321. FILING FEE

ON THE COMMENCEMENT IN, OR THE REMOVAL TO, THE SUPERIOR COURT OF ANY COUNTY IN THIS STATE, OF ANY CIVIL ACTION, PROCEEDING, OR APPEAL, AND ON THE COMMENCEMENT IN, OR REMOVAL TO, THE MUNICIPAL COURT OR JUSTICE COURT IN ANY COUNTY, OF ANY CIVIL ACTION OR PROCEEDING, THE PARTY INSTITUTING SUCH PROCEEDING, OR FILING THE FIRST PAPERS, SHALL PAY TO THE CLERK OF THE COURT, FOR

THE LAW LIBRARY, ON FILING THE FIRST PAPERS THE SUM OF ONE DOLLAR ($1) AS COSTS, IN ADDITION TO THE FEES FIXED BY LAW.

SECTION 6322 FIRST APPEARANCE FEE

THEREAFTER, ANY DEFENDANT, RESPONDENT, ADVERSE PARTY, OR INTERVENING PARTY, ON HIS FIRST APPEARANCE IN A SUPERIOR OR MUNICIPAL COURT, OR ANY NUMBER OF DEFENDANTS RESPONDENTS, OR PARTIES, APPEARING JOINTLY, SHALL PAY TO THE CLERK OF THE COURT, FOR THE LAW LIBRARY, THE SUM OF ONE ($1) AS COSTS, IN ADDITION TO THE FEES FIXED BY LAW.

SECTION 6322.1 INCREASE OF FEES

(a) EXCEPT IN COUNTIES CONTAINING A POPULATION OF 4,000,000 AND OVER, THE BOARD OF SUPERVISORS OF ANY COUNTY MAY INCREASE THE COSTS PROVIDED IN SECTIONS 6321 and 6322 TO MORE THAN SEVEN DOLLARS ($7) FOR EACH EVENT THERE DESCRIBED WHENEVER IT SHALL DETERMINE THAT THE INCREASE IS NECESSARY

TO DEFRAY THE EXPENSES OF THE LAW LIBRARY.

(b) DOES NOT APPLY HEREIN

SECTION 6323. COURTS AND PROCEEDINGS EXCEPTED.

SUCH COSTS SHALL NOT BE COLLECTED, HOWEVER, IN SMALL CLAIMS COURTS, NOR SHALL THEY BE COLLECTED IN JUSTICES' COURTS IN COUNTIES IN WHICH THERE ARE MORE THAN 25 MUNICIPAL COURT JUDGES, NOR SHALL THEY BE COLLECTED ON FILING A PETITION FOR LETTERS OF ADOPTION, OR THE FILING OF A DISCLAIMER.

SECTION 6324. ADDITIONAL PAYMENTS TO FUND

THE BOARD OF SUPERVISORS OF ANY COUNTY MAY SET APART FROM THE FEES COLLECTED BY THE COUNTYCLERK, SUMS NOT EXCEEDING ONE THOUSAND TWO HUNDRED DOLLARS ($1,200) IN ANY ONE FISCAL YEAR, TO BE PAID BY THE COUNTY CLERK INTO THE LAW LIBRARY FUND IN ADDITION TO THE MONEYS OTHERWISE PROVIDED TO BE DEPOSITED IN THAT FUND BY LAW. THE

BOARD OF SUPERVISORS MAY ALSO APPROPRIATE FROM THE COUNTY TREASURY FOR LAW LIBRARY PURPOSES USCH ADDITIONAL SUMS AS MAY IN THEIR DISCRETION APPEAR PROPER. WHEN SO PAID INTO THE LAW LIBRARY FUND, SUCH SUMS SHALL CONSTITUTE A PART OF THE FUND AND BE USED FOR THE SAME PURPOSES.

SECTION 6343. RULES, REGULATIONS AND BY-LAWS; EXPENDITURES

A BOARD MAY MAKE AND ENFORCE ALL RULES, REGULATIONS, AND BY-LAWS NECESSARY FOR THE ADMINISTRATION, GOVERNMENT, AND PROTECTION OF THE LAW LIBRARY, AND OF ALL PROPERTY BELONGING THERETO, OR THAT MAY BE LOANED, DEVISED, BEQUEATHED, OR DONATED TO IT. A BOARD MAY MAKE EXPENDITURES FOR THE SUITABLE MAINTENANCE, REPAIR, PROTECTION AND INSURANCE AGAINST LOSS OF SUCH PROPERTY, BOTH REAL AND PERSONAL.

SECTION 6360 USE OF LIBRARY; CHARGES

A LAW LIBRARY ESTABLISHED UNDER THE PRO-

VISIONS OF THIS CHAPTER SHALL BE FREE TO THE JUDICIARY, TO STATE AND COUNTY OFFICIALS, TO MEMBERS OF THE STATE BAR, AND TO ALL RESIDENTS OF THE COUNTY, FOR THE EXAMINATION OF BOOKS AND OTHER PUBLICATIONS AT THE LIBRARY OR ITS BRANCHES.

THE BOARD OF LAW LIBRARY TRUSTEES MAY PERMIT THE REMOVAL OF SUCH BOOKS AND OTHER PUBLICATIONS FROM THE LIBRARY AND ITS BRANCHES AS IT CONSIDERS PROPER, SUBJECT TO SUCH RULES, AND, IN ITS DISCRETION, THE GIVING OF SUCH SECURITY, AS IT MAY PROVIDE TO INSURE THE SAFEKEEPING AND PROMPT RETURN THEREOF, BUT NO SECURITY SHALL BE REQUIRED OF MEMBERS OF THE JUDICIARY OR COUNTY OFFICIALS. THE BOARD MAY PROVIDE FOR THE LEVYING OF FINES AND CHARGES FOR VIOLATION OF THE RULES, AND MAY MAKE CHARGES TO COVER THE COST OF SPECIAL SERVICES, SUCH AS THE MAKING OF PHOTOCOPIES OF PAGES OF LIBRARY BOOKS, AND MESSENGER

SERVICE.

THE BOARD OF LAW LIBRARY TRUSTEES MAY REQUIRE PERSONS OTHER THAN MEMBERS OF THE JUDICIARY, COUNTY OFFICIALS, AND MEMBERS OF THE JUDICIARY, COUNTY OFFICIALS, AND MEMBERS OF THE BAR RESIDENT IN THE COUNTY, TO PAY SUCH DUES AS THE BOARD MAY FIX FOR THE PRIVILEGE OF REMOVING BOOKS AND OTHER PUBLICATIONS FROM THE LIBRARY.

SECTION 6361. QUARTERS AND FACILITIES

THE BOARD OF SUPERVISORS OF THE COUNTY IN WHICH THE LAW LIBRARY IS ESTABLISHED SHALL PROVIDE SUFFICIENT QUARTERS FOR THE USE OF THE LIBRARY UPON REQUEST OF THE BOARD OF LAW LIBRARY TRUSTEES, EXCEPT THAT THE BOARD OF SUPERVISORS NEED NOT PROVIDE SUCH QUARTERS WHEN THE BOARD OF LAW LIBRARY TRUSTEES DETERMINES IT HAS SUFFICIENT FUNDS, OVER AND ABOVE THOSE NECESSARY FOR OPERATION AND MAINTENANCE EXPENSES, TO PROVIDE ITS OWN QUARTERS. SUCH PROVISION

MAY INCLUDE, WITH THE ROOM OR ROOMS PROVIDED, SUITABLE FURNITURE, WINDOW SHADES, FLOORE COVERINGS, LIGHTING, HEAT AND TELEPHONE AND JANITOR SERVICE.

SECTION 6304. MEETINGS OF TRUSTEES.

EACH BOARD OF LAW LIBRARY TRUSTEES SHALL MEET REGULARLY EACH MONTH ON SUCH DAY AS IT SHALL APPOINT, BUT IF IT APPOINT NO DAY IT SHALL MEET ON THE FIRST TURSDAY AFTER THE FIRST SATURDAY OF EACH MONTH, AND ANY BOARD MAY MEET AT SUCH OTHER TIMES AS IT MAY APPOINT, AT A PLACE TO BE DESIGNATED FOR THAT PURPOSE. THE PRESIDENT OF THE BOARD MAY CALL A SPECIAL MEETING AT ANY TIME FOR THE TRANSACTION OF NECESSARY BUSINESS. A MAJORITY OF THE MEMBERS CONSTITUTES A QUORUM FOR BUSINESS, AND AN AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBERS IS REQUIRED TO EXERCISE THE POWERS OF THE BOARD.

CALIFORNIA CIVIL CODE SECTION 832.

LATERAL AND SUBJACENT SUPPORT: EXCAVATIONS: DEGREE OF CARE; DAMAGES; PROTECTION OF OTHER STRUCTURES

EACH COTERMINOUS OWNER IS ENTITLED TO THE LATERAL AND SUBJACENT SUPPORT WHICH HIS LAND RECEIVES FROM THE ADJOINING LAND, SUBJECT TO THE RIGHT OF THE OWNER OF THE ADJOINING LAND TO MAKE PROPER AND USUAL EXCAVATIONS ON THE SAME FOR PURPOSES OF CONSTRUCTION OR IMPROVEMENT, UNDER THE FOLLOWING CONDITIONS:

1. ANY OWNER OF LAND OR HIS LESSEE INTENDING TO MAKE OR TO PERMIT AN EXCAVATION SHALL GIVE REASONABLE NOTICE TO THE OWNER OR OWNERS OF ADJOINING LANDS AND OF BUILDINGS OR OTHER STRUCTURES, STATING THE DEPTH TO WHICH SUCH EXCAVATION IS INTENDED TO BE MADE, AND WHEN THE EXCAVATING WILL BEGIN.

2. IN MAKING ANY EXCAVATION, ORDINARY CARE AND SKILL SHALL BE USED, AND REASON-

ABLE PRECAUTIONS TAKEN TO SUSTAIN THE ADJOINING LAND AS SUCH, WITHOUT REGARD TO ANY BUILDING OR OTHER STRUCTURE WHICH MAY BE THEREON, AND THERE SHALL BE NO LIABILITY FOR DAMAGE DONE TO ANY SUCH BUILDING OR OTHER STRUCTURE BY REASON OF THE EXCAVATION, EXCEPT AS OTHERWISE PROVIDED BY LAW.

3. IF AT ANY TIME IT APPEARS THAT THE EXCAVATION IS TO BE OF A GREATER DEPTH THAN ARE THE WALLS OR FOUNDATIONS OF ANY ADJOINING BUILDING OR OTHER STRUCTURE, AND IS TO BE SO CLOSE AS TO ENDANGER THE BUILDING OR OTHER STRUCTURE IN ANY WAY, THEN THE OWNER OF THE BUILDING OR OTHER STRUCTURE MUST BE ALLOWED AT LEAST 30 DAYS, IF HE SO DESIRES, IN WHICH TO TAKE MEASURES TO PROTECT THE SAME FROM ANY DAMAGE, OR IN WHICH TO EXTEND THE FOUNDATIONS THEREOF, AND HE MUST BE GIVEN FOR THE SAME PURPOSES REASONABLE LICENSE TO ENTER ON THE LAND ON WHICH THE EXCAVATION IS TO BE OR IS

BEING MADE.

4. IF THE EXCAVATION IS INTENDED TO BE OR IS DEEPER THAN THE STANDARD DEPTH OF FOUNDATIONS, WHICH DEPTH IS DEFINED TO BE A DEPTH ***NINE FEET BELOW THE ADJACENT CURB LEVEL, AT THE POINT WHERE THE JOINT PROPERTY LINE INTERSECTS THE CURB AND IF ON THE LAND OF THE COTERMINOUS OWNER THERE IS ANY BUILDING OR OTHER STRUCTURE THE WALL OR FOUNDATION OF WHICH GOES TO STANDARD DEPTH OR DEEPER THAN THE OWNER OF THE LAND ON WHICH THE EXCAVATION IS BEING MADE SHALL, IF GIVEN THE NECESSARY LICENSE TO ENTER ON THE ADJOING LAND, PROTECT THE SAID ADJOINING LAND AND ANY SUCH BUILDING OR OTHER STRUCTURE THEREON WITHOUT COST TO THE OWNER THEREOF, FROM ANY DAMAGE BY REASON OF THE EXCAVATION, AND SHALL BE LIABLE TO THE OWNER OF SUCH PROPERTY FOR SUCH DAMAGE, EXCEPTING ONLY FOR MINOR SETTLEMENT CRACKS IN BUILDINGS OR OTHER STRUCTURES**(1968 AMEND."NINE" FEET).

CALIFORNIA CODE CIVIL PROCEDURE §583

DISMISSAL; LACK OF PROSECUTION; FAILURE TO BRING ACTION TO TRIAL

(a) ----- , , ,

(b) ANY ACTION HERETOFORE OR HEREAFTER COMMENCED SHALL BE DISMISSED BY THE COURT IN WHICH THE SAME SHALL HAVE BEEN COMMENCED OR TO WHICH IT MAY BE TRANSFERRED ON MOTION OF THE DEFENDANT, AFTER DUE NOTICE TO PLAINTIFF OR BY THE COURT UPON ITS OWN MOTION, UNLESS SUCH ACTION IS BROUGHT TO TRIAL WITHIN FIVE YEARS AFTER THE PLAINTIFF HAS FILED HIS ACTION, EXCEPT WHERE THE PARTIES HAVE FILED A STIPULATION IN WRITING THAT THE TIME MAY BE EXTENDED.

(e) FOR THE PURPOSES OF THIS SECTION, "ACTION" INCLUDES AN ACTION COMMENCED BY CROSS-COMPLAINT.

APP-C1, 99a

OCTOBER 10, 1975

BOARD OF SUPERVISORS
COUNTY OF SHASTA
COURTHOUSE
1500 COURT STREET
REDDING, CALIFORNIA 96001

(RECEIVED SHASTA
(COUNTY CLERK
(OCT 10 1975

HONORABLE MEMBERS OF THE BOARD OF SUPERVISORS

RE: CLAIM FOR DAMAGES FOR CLOSURE OF THE SHASTA COUNTY LAW LIBRARY. HARASSMENT REDDING JUDICIAL DISTRICT 75 S 440.

1. THIS CLAIM IS PRESENTED PURSUANT TO SECTION 910 OF THE CALIFORNIA GOVERNMENT CODE.

2. HELEN FAYE GENERES CLAIMANT'S ADDRESS IS 2538 WALDON STREET, REDDING, CALIFORNIA 96001.

3. ALL NOTICES IN CONNECTION WITH THE ABOVE ARE TO BE SENT TO HELEN FAYE GENERES AT 2538 WALDON STREET, REDDING, CALIFORNIA 96001

4. SINCE THE FIRST PART OF SEPTEMBER 1975 THE LAW LIBRARY HAS BEEN CLOSED TO THE PUBLIC IN FAVOR OF THE MONOPOLY OF THE MEMBERS OF THE BAR. THE LAW LIBRARY IS SUPPORTED

BY THE GENERAL FUND AND IS LOCATED IN THE COURTHOUSE. AS DEFENDANTS IN CIVIL S75-438 PCW UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA, THIS IS AN OVERT ACT OF CONSPIRACY ON YOUR PART TO KEEP ME FROM DOING MY RESEARCH IN MY LAWSUIT, WHICH IS PENDING IN THE FEDERAL COURT.

5. I HAVE BEEN HARASSED PUBLICLY AND PRIVATELY IN 75 S 440.

6. PLAINTIFF HAS SUFFERED AS A RESULT OF THE WRONGF[illegible] ACTS AND SEEKS DAMAGES IN EXCESS OF TEN MILLION DOLLARS FOR DEPRIVATION OF HER RIGHTS, AND THE HARASSMENT, TIME AND LEGAL EXPENSES INVOLVED WHICH ARE UNKNOWN PRESENTLY.

EXECUTED AT REDDING, CALIFORNIA.

OCTOBER 10, 1975.

_/s/ HELEN FAYE GENERES
HELEN FAYE GENERES

(FILED COMPLAINT #75-438-PCW UNITED STATES DISTRICT COURT OF EASTERN DISTRICT CALIFORNIA

MEMO SEPTEMBER 24, 1975

FROM: RICHARD C. BRENNAN
EX-OFFICIO CLERK OF THE BOARD OF SUPERVISORS
SHASTA COUNTY BOARD OF SUPERVISORS

TO: JUDGE SMALL
LAW LIBRARY COMMITTEE

VICTOR LOCKMAN APPEARED BEFORE THE BOARD OF SUPERVISORS ON MONDAY, SEPTEMBER 22, 1975, AND MADE A PRESENTATION CONCERNING USE OF THE LAW LIBRARY. THE BOARD OF SUPERVISORS HAS REFERRED THIS MATTER TO YOU FOR CONSIDERATION. A COPY OF THE PRESENTATION IS ATTACHED FOR YOUR USE.

VIC LOCKMAN
P.O. BOX 844
ANDERSON, CA 96007

SEPT. 22, 1975.

SHASTA CO. BD. OF SUPERVISORS
REDDING, CA

I'M HERE TODAY BECAUSE I SHARE A VERY SERIOUS PROBLEM WITH THE OTHER CITIZEN-TAX-PAYERS OF SHASTA COUNTY. WE HAVE JUST RECENTLY BEEN LOCKED OUT OF THE SHASTA

COUNTY LAW LIBRARY EXCEPT FROM 3 TO 5 PM DAILY, WHEREAS FORMERLY THE DOOR WAS OPEN ALL DAY. A SIGN POSTED ON THE LAW LIBRARY DOOR STATES THAT LAWYERS MAY OBTAIN A KEY AT ANY HOUR AND THAT LAWYERS ONLY MAY CHECK OUT BOOKS. LAY PEOPLE HAVE NO SUCH PRIV-ILEGES. THIS RESTRICTION COMES AT AN ES-BECIALLY BAD TIME FOR ME, SINCE AS YOU KNOW, THE LIBRARIAN, COUNTY COUNSEL, AND ALL OF YOU SUPERVISORS ARE DEFENDANTS IN A CIVIL RIGHTS LAW SUIT WHICH I HAVE FILED PROPRIA PERSONNA IN THE U.S. DISTRICT COURT. FOR GOOD REASONS I HAVE OPTIONED TO DO MY OWN LEGAL WORK AND NOW ON THE EVE OF FIL-ING A "MOTION TO SET FOR TRIAL" AND CERTI-FICATE OF READINESS" I FIND THAT SOME OF THE VERY PERSONS I WISH TO BRING TO TRIAL FOR VIOLATING MY CIVIL RIGHTS ARE RESPONS-IBLE FOR OBSTRUCTING MY LEGAL RESEARCH; NAMELY YOU, THE SHASTA COUNTY BOARD OF SUPERVISORS.

ALLOW ME TO BRIEFLY OUTLINE THE SITUATION:

1. WHOSE LAW LIBRARY IS IT?

THE LAW LIBRARY COMMITTEE (CREATED BY STATUTE) IS COMPOSED OF JUDGES ABBIE EATON, SMALL. ALSO ON THE COMMITTEE, AND APPOINTED BY THE BOARD OF SUPVISORS IS MRS. BESSIE SAUNDERS & LOCAL LAWYERS, CARR AND SRITE. IT'S INTERESTING TO NOTE THAT GOV. BOWN RECENTLY APPOINTED LAY PEOPLE TO THE CALIF BAR ASSOC. WHY CAN'T WE EVEN HAVE FREE ACCESS TO THE LAW LIBRARY MUCH LESS SERVE ON ITS COMMITTEE HERE IN SHASTA COUNTY? IN OTHER COUNTIES THE TAXPAYERS ARE NOT SO DISCRIM-INATED AGAINST TO GIVE MONOPOLISTIC USE OF THE LIBRARIES TO THE 'LEGAL PROFESSION.'

IT IS SAID THAT LOCAL LAWYERS CONTRIBUTE $150 ANNUALLY TO THE LAW LIBRARY TRUST FUND BUT I DO NOT BELIEVE THIS IS SO. SUCH SUMS COLLECTED BY THE BAR ASSOC. ARE SPENT TO CONDUCT SEMINARS AND LOBBYINT ACTIVITIES IN SACRAMENT.

LAST NIGHT JUDGE EATON TOLD ME THAT THE

LAW BOOKS ARE NOT PURCHASED WITH ACTUAL TAX DOLARS BUT WITH COURT FILING FEES! BUT I ASK YOU, WHO IF NOT THE PUBLIC, IS ENTITLED TO BENEFIT FROM MONIES TAKEN IN BY THE COUNTY FROM WHATEVER SOURCE? WHO DARES TO APPROPRIATE SUCH FUNDS LARGELY FOR THE BENEFIT OF PRIVATE LAWYERS?

I ASKED JUDGE EATON IF HE DIDN'T THINK ORDINARY CITIZENS HAVE AS MUCH RIGHT TO USE THE LAW LIBRARY AS PRIVATE LAWYERS. HIS ANSWER..."NO! WE'VE HAD TOO MANY BOOKS TURN UP MISSING & WE'RE TRYING TO BUILD UP THE LIBRARY." NOTICE THE ASSUMPTION THAT ORDINARY CITIZENS,NOT LAWYERS, MUST BE GUILTY OF TAKING BOOKS. THE WHOLE IDEA OF RESTRICTING US IS AN IMPLICATION THAT WE CAN'T BE TRUSTED. WHY, AFTER THE 'WATER-GATE" SCANDAL INVOLVING MOSTLY LAWYERS, DOES ANYBODY STILL HARBOR THE ILLUSION THAT LAWYERS ARE MORE TRUSTWORTHY THAN THE REST OF US. FURTHER, IF THE COMMITTEE IS REALLY TRYING TO BUILD UP THE LAW LIBRARY WHY ARE

THEY DISPOSING OF MANY VALUABLE SETS OF BBOOKS SUCH AS THE "DEERING CALIF. CODE" AND "AMERICAN JURISPRUDENCE"? ONE REASON ADVANCED FOR EXPLAINING WHY THESE BOOKS MUST BE THROWN AWAY INSTEAD OF SOLD IS THEY WERE PURCHASED WITH ...(NOTE) "PUBLIC FUNDS."

JUDGE EATON HIMSELF ADMITS THAT THE LAW LIBRARY HAS BEEN "PUBLIC" FOR 40 YEARS. NOTE ALSO THAT TAX-PAID PUBLIC SERVANTS HANDLE & DISPERSE THE FUNDS AND THAT THE LIBRARY ITSELF IS HOUSED IN PUBLIC PROPERTY ---THIS VERY COURTHOUSE! HOW CAN ANYONE DARE TO DENY OR RESTRICT THE PUBLIC FROM ACCESS TO THE LAWS OF THE LAND THAT "WE THE PEOPLE" HAVE ESTABLISHED?.

IN SHASTA COUNTY DO WE REALLY HAVE A GOV'T OF THE PEOPLE, BY THE PEOPLE & FOR THE PEOPLE... OR IS IT A COUNTY GOV'T OF, BY, AND FOR THE JUDGES, LAWYERS AND POLITICIANS?

IN CONCLUSION I WISH TO OFFER A FEW HELP-

FUL SUGGESTIONS.

WILL THE BD. OF SUPERVISORS PROMPTLY IN-VESTIGATE THE LAW LIBRARY COMMITTEE AND ITS RECENT DISCRIMINATORY RULINGS AFORE-MENTIONED?

IT WOULD BE WELL FOR THE GENERAL PUBLIC TO AGAIN BE ALLOWED ACCESS AT ANY HOUR OF THE DAY TO THE LIBRARY, AND BE OFFERED EVERY PRIVILEGE OFFERED TO LAWYERS.

A 5¢ OR 10¢ COPYING MACHINE IN THE LAW LIBRARY WOULD REMOVE THE NECESSITY OF MOST BOOK WITHDRAWALS.

ALLOW THE GENERAL PUBLIC TO SIGN FOR THE KEY (WITH PROPER I.D.) IF SECURITY IS IMPORTANT. ISSUE "LAW LIBRARY" CARDS, PERHAPS TAKING A DEPOSIT FROM ALL APPLI-CANTS, INCLUDING OUR FRIENDS THE LAWYERS.

FINALLY, IF I CAN'T RESUME MY LEGAL RESEARCH HERE FREELY AS IN TIMES PAST I'LL VERY S SHORTLY TAKE APPROPRIATE LEGAL ACTION AGAINST ALL PARTIES INVOLVED IN THIS UN-WARRANTED DEPRIVATION OF RIGHTS.

/s/ VICTOR E. LOCKMAN

APP-E1, 107a

2 OCTOBER 1975

RECEIVED SHASTA COUNTY CLERK - Oct 2 1975

BOARD OF SUPERVISORS
COUNTY OF SHASTA
COURTHOUSE
REDDING, CALIFORNIA

RE: SHASTA COUNTY LAW LIBRARY

GENTLEMEN:

PLEASE REFER TO SECTIONS 6301, 6343, AND 6360 OF THE BUSINESS AND PROFESSIONS CODE. EXAMINATION OF THOSE SECTIONS MAKES IT CLEAR THAT IT IS THE OBLIGATION OF THE BOARD OF TRUSTEES OF THE SHASTA COUNTY LAW LIBRARY TO ESTABLISH THE RULES UNDER WHICH SAID LAW LIBRARY IS TO BE OPERATED.

BY REASON OF THE NUMBER OF BOOKS WHICH HAD PREVIOUSLY BEEN REMOVED FROM THE LAW LIBRARY AND THE NUMBER WHICH HAD NOT BEEN RETURNED, DECISION HAS BEEN BADE THAT PUBLIC USE OF SAID LAW LIBRARY WOULD ONLY BE ALLOWED AT TIMES WHEN A LAW LIBRARIAN IS PRESENT. FOLLOWING THE MEETING OF SEPTEMBER 25, L975, DECISION WAS MADE TO STAND FIRM ON THE PRIOR DECISION ADOPTED BY THE BOARD OF TRUSTEES

FOR THE SHASTA COUNTY LAW LIBRARY AND THAT ACCESS TO SAID LIBRARY SHOULD NOT BE ALLOWED BY THE PUBLIC WITHOUT THE PRESENCE OF THE LAW LIBRARIAN.

AT THE PRESENT TIME THE BOARD OF TRUSTEES IS SEEKING THE EMPLOYMENT OF A FULL-TIME LAW LI LIBRARIAN. UPON SECURING THE SAME, THE LAW LIBRARY WILL BE OPEN FOR PUBLIC USE AT ALL TIMES.

VERY TRULY YOURS,

SHASTA COUNTY LAW LIBRARY COMMITTEE

/S/ _____
HONORABLE RICHARD B. EATON, MEMBER

/S/ _____
ROBERT L. SRITE, ACTING SECRETARY

TED ROBERTS
STATE COMMANDER & CHAIRMAN
CALIFORNIA VETERANS GRIEVANCE COMMITTEE
BOX 1143
ANDERSON, CALIF. 96007
PHONE (916) 365 - 4992

DEAR MINTA H. REICHEL:

WE ARE IN SUPPORT OF YOUR STRUGGLE FOR EQUAL ACCESS TO THE SHASTA COUNTY LEGAL LIBRARY, AND IT APPEARS, STRONGLY, YOU ARE NOT ALTOGETHER WRONG WHEN YOU FEEL EACH CITIZEN SHOULD BE EQUAL TO ANY ATTORNEY (WHO GETS A FREE RIDE ON WE TAX PAYERS DOLLAR, AND USES SUCH LEGAL BOOKS TO GAIN A PROFITABLE END FOR HIMSELF) AND YOUR NOTICE IS WELL TAKEN AS TO THE INTENT OF THE CHOSEN FEW.

SUCH ILLEGAL AND DISCRIMINATORY PRACTICE SHOULD CEASE, NEXT THE ELECTED BOARDS WILL REFUSE US OUR OTHER LIBRARIES, THEN THEY WILL TELL US WHAT WE CAN BE KNOWLEDGEABLE OF, AND WHAT WE CANNOT.

AS A LARGE TAXPAYER, FOR MANY YEARS, IN THIS COUNTY, I AM BEYOND WORDS AS TO THE

CHOSEN FEWS, REFUSAL OF THE MASSES TO OPENLY USE THE LAW LIBRARY, AFTER ALL WE PAID FOR IT, PAID THE THE EMPLOYEES WAGES, THE UTILITIES ETC. ARE THE CHOSEN FEW TELLING THE ALL OF US THAT THE LAWS ARE ONLY TO BE SOUGHT OUT BY THE ATTORNEY'S? IF SUCH BE FACT, THEN dOES NOT ONE HAVE THE RIGHT TO PRESUME THAT KNOWLEDGE OF THE LAWS, THE ASSISTANCE OF THE LAWS, ARE REFUSED A CITIZEN BY WHAT STRANGELY SEEMS A GROUP OF ATTORNEYS AND HANKY PANKY POLITICS?

MAY I ASK,WHY THE ATTORNEY'S CAN CHECK LAW BOOKS OUT, BUE WE ARE FORBIDDEN SUCH PLEASURE, IN DEFENSE OF OUR RIGHTS AND VESTED GUARANTEES OF THE U.S. CONSTITUTION? IS IT THEIR WORDS THAT LAYMEN ARE INCAPABLE OF UNDERSTANDING THE WRITTEN LAWS, OR IS IT A CASE OF REFUSING ALL OF US SUCH TO CAUSE A CESSATION OF OUR RIGHTS TO SELF DEFENSE AND REPRESENTATION?

NO DOUBT YOU HAVE CONSIDERED A TAX PAYERS

SUIT, A JOINT ACTION ON BEHALF OF THE MANY. IN THE LAST FOUR YEARS I HAVE WON TWENTY-SIX (26) FEDERAL CASES, AND EIGHTEEN (18) STATE CASES, ALL FILED WITHIN THE FEDERAL DISTRICT COURT IN S.F. MUCH OF MY LAW STUDY AND FINDINGS WERE OBTAINED IN THE LAW LIBRARY IN NAPA COUNTY, FOR IT DOES NOT REFUSE A CITIZEN HIS RIGHT TO USE SAID LAW LIBRARY.

AGREED, I COMPILED THE CASES, THE SUPREME COURT DECISIONS, STATE DECISIONS, ALL THE DATA OUR ATTORNEYS, WHEN THEY GO TO PRE-TRIAL THEY HAVE ALL THE EVIDENCE THEY NEED, AND MORE.

NO DOUBT YOU SENSE I REPRESENT THOUSANDS OF VETERANS, AND AM A CONSTANT READER OF MANY FIELDS OF LAW, SUCH OBTAINED IN FREE LIBRARIES, PURCHASED LAW BOOKS, STATE AND FEDERAL AGENCY LAWS, ALL ARE PUBLIC, WHY NOT THE SHASTA CO. LAW LIBRARY PUBLIC? NO DOUBT THE "ROOTS"OF SAID ABUSIVE ACTIONS

CAN BE FOUND IN THE POLITICAL STRUCTURE OF THIS SHABBY MESS. MY ATTORNEYS WELCOME MY YEARS OF KNOWLEDGE, AND IT SAVES ME FIFTY-DOLLARS ($50.00) AN HOUR LEGAL FEES.

I CANNOT BEGIN TO TELL YOU OF THE CASES I HANDLE, I RESEARCH, I BRIEF FOR OUR ATTORNEYS, THEY NEVER CEASE WONDERING HOW I OBTAIN FACTS THAT EVEN "WRITTS OF DISC-OVERY" DO NOT UNCOVER.

AS EACH CITIZEN IS VESTED WITH THE RIGHT TO DEFEND, OR TO PROTECT IN HIS OWN BEHALF, HOW CN HE IF HE DOES NOT HAVE THE LEGAL TOOLS TO COME ABOUT GOODLY LEGAL ENDS? DO THE ATTORNEYS HAVE A "CORNER" ON ALL LAW EDUCATION? SUCH APPEARS TO ME A DIRECT BARR TO YOUR AND OTHERS RIGHTS TO KNOWLEDGE ---A SACRED RIGHT. WE OFTEN HEAR, "KNOW THE LAWS," HOW CAN SUCH COME ABOUT WHEN GOODLY PLEADS ARE TREATED MUCH LIKE "GIVING MEDICINE TO THE DEAD?"

I DEEPLY ADMIRE YOU FOR WHAT YOU ARE ABOUT, AND KNOW SUCH STRUGGLE WILL BE,

AND HAD BEEN, CLOAKED IN POLITICAL ABUSES. I HAVE FOUND THAT COURT ACTIONS ARE MUCH MORE DESERVING OF MY TIME THAN SITTING BEFORE A SEEMENLY GROUP OF DEGENERATES, SUCH CARRIES NOT ONLY IN LOCAL ISSUES BUT IN THE STATE CAPITOL AND IN WASHINGTON D.C. IT TOOKE ME YEARS TO OBTAIN THE KEY THAT CUTS ALL THE RED TAPE THAT CHOKES THE FIGHT OF AN ISSUE TO DEATH.

AGAIN I SUPPORT YOUR MOST WORTHY CONFRONTATION, AND PRAY YOU THE RELIEF YOU SO RIGHTFULLY ARE DESERVING OF, SUCH, IN THE END, WILL AFFECT MANY WHO DESIRE THE RIGHT TO THE LEGAL LIBRARY.

MY KIND REGARDS ATTEND YOU,

/s/ TED ROBERTS

APP-G1, 114a
8-8-77

DEAR MRS. REICHEL,

AGREE WITH YOU 100%---KNOW A LOT OF OTHERS IN AREA WHO DO TOO---

WOULD LIKE TO TALK TO YOU PERSONALLY SOME TIME----

LEAGUE OF WOMEN VOTERS ARE INTERESTED IN THIS ISSUE ALSO.

GOOD LUCK IN YOUR VENTURE INTO NENVER, NEVER LAND ----

SINCERELY,

/s/ STUART M. OLIVER
2762 RUSSELL STREET
REDDING, CALIF. 96001

APP-H1, 115a

C.F. SMITH
ST.RT. 2, BOX 149
BURNEY, CA 96013
8-26-77
ph 335-4710

MINTA H. REICHEL
P.O. BOX 2304
REDDING, CA

DEAR SIR:

I AGREE WITH YOUR STAND. ISN'T THIS LAW LIBRARY ALSO SUPPORTED BY US COUNTY AND STATE RESIDENTS THRU THE BOARD OF SUPERVISORS FOR SHASTA COUNTY?

/s/ CHARLES F. SMITH

(CITY OF REDDING, CALIFORNIA)
LEGAL NOTICE

ORDINANCE NO. 944
(FILED OCTOBER 9, 1967)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDDING AMENDING THE REDDING CITY CODE, 1959, AS AMENDED. BY REPEALING SECTION 19-20 AND SUBSTITUTING THEREFORE A NEW SECTION 19-20 PERTAINING TO THE OBSTRUCTION OF NATURAL WATER CHANNELS, PERMITS THEREFOR AND STORM DRAINAGE CONSTRUCTION STANDARDS.

THE CITY COUNCIL OF THE CITY OF REDDING DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. THE REDDING CITY CODE, 1959, AS AMENDED, IS HEREBY AMENDED BY REPEALING SECTION 19-20 AND SUBSTITUTING THEREFOR A NEW SECTION 19-20, AS FOLLOWS:

"SECTION 19-20. OBSTRUCTION OF NATURAL WATER CHANNELS, PERMITS THEREFOR, AND STORM DRAINAGE CONSTRUCTION STANDARDS.

NO PERSON SHALL IN ANY MANNER FILL OR

OBSTRUCT ANY NATURAL WATER CHANNEL, INCLUDING, NATURAL STORM WATER CHANNELS WITH THE BOUNDARIES OF THE CITY WITHOUT FIRST APPLYING FOR AND OBTAINING A WRITTEN PERMIT FOR SUCH PURPOSE FROM THE DIRECTOR OF PUBLIC WORKS. ALL CONSTRUCTION OF BRIDGES, CONDUITS, BOX CULVERS, OR OTHER STORM DRAINAGE IMPROVEMENTS ACROSS, ALONG OR IN A NATURAL WATER CHANNEL SHALL BE CONSTRUCTED AND INSTALLED IN ACCORDANCE WITH STANDARDS AND SPECIFICATIONS ESTABLISHED BY THE CITY COUNCIL BY RESOLUTION, COPIES OF WHICH SHALL BE ON FILE IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS AND THE OFFICE OF THE BUILDING INSPECTOR, TO WHICH REFERENCE SHOULD BE MADE FOR PARTICULARS.

THE CITY COUNCIL MAY AMEND OR CHANGE SUCH REGULATIONS AND STANDARDS FROM TIME TO TIME HEARAFTER BY RESOLUTION.

THE DIRECTOR OF PUBLIC WORKS SHALL CONDITION ALL PERMITS ISSUED PURSUANT TO THIS

SECTION IN ACCORDANCE WITH THE STANDARDS AND SPECIFICATIONS APPLICABLE TO THE FILL OR OBSTRUCTION PROPOSED TO BE CONSTRUCTED. A COPY OF THIS SECTION OF THE CODE SHALL BE ATTACHED TO ALL PERMITS ISSUED PURSUANT TO THIS SECTION." (EMPHASIS ADDED).

SECTION 2. THE CITY CLERK OF THE CITY OF REDDING SHALL CERTIFY TO THE ADOPTION OFTHIS ORDINANCE AND SHALL CAUSE IT TO BE PUBLISHING IN ACCORDANCE WITH LAW.

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS INTRODUCED AND READ AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF REDDING ON THE 18th DAY OF SEPTEMBER, 1967, AND DULY READ AND ADOPTED ON THE 2ND DAY OF OCTOBER, 1967, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF REDDING BY THE FOLLOWING VOTE:

AYES: COUNCILMEN: DENNY, DOHERTY, FULTON CHATFILD

NOES: COUNCILMEN: NONE

ABSENT: COUNCILMEN : MOTY

/s/ ROBERT R. CHATFIELD
ROBERT R. CHATFIELD
VICE MAYER OF THE CITY OF REDDING

ATTEST: /MILDRED L. BRAYTON I
MILDRED L. BRAYTON, CITY CLERK

FORM APPROVED:

/EARL D. MURPHY
EARL D. MURPHY
CITY ATTORNEY

OCTOBER 9, 1967

(EMPHASIS ADDED)

MINUTES OF THE SHASTA COUNTY LAW LIBRARY

BOARD OF TRUSTEES MEETING

A MEETING OF THE BOARD OF TRUSTEES OF THE SHASTA COUNTY LAW LIBRARY WAS HELD IN THE CHAMBERS OF HONORABLE CLYDE SMALL ON OCTOBER 31, 1974.

PRESENT: JUDGE CLYDE SMALL
HENRY KEEFER
LAURENCE CARR
AL CUNNINGHAM

ABSENT: JUDGE RICHARD EATON
JUDGE R.W. ABBE

(PARAGRAPHS 1. ----4 AND 7. ---10. NOT PERTINENT TO ISSUE.)

5. THE SECRETARY WAS AUTHORIZED AND DIRECTED TO CIRCULARIZE THE BAR AND TO DEPLORE THE LACK OF FORMALITY PRESENTLY EXISTING WITH RESPECT TO THE REMOVAL AND RETURN OF BOOKS. THE MEMBERS OF THE BAR WERE PARTICULARLY ASKED TO SEARCH THEIR OFFICES AND LIBRARIES FOR ANY BOOKS BELONGING TO THE COUNTY LAW LIBRARY AND TO HAVE THEM RETURNED.

6. THE BOARD DETERMINED THAT AS SOON

AS A DECISION IS MADE WITH RESPECT TO THE RETENTION OR CHANGE OF QUARTERS FOR THE LIBRARY, A KEY SYSTEM WILL BE INSTALLED WHEREBY THE BAR ALONE WILL HAVE KEYS. THE LIBRARY WILL BE OPEN AT CERTAIN HOURS OF THE DAY FOR THE PUBLIC. SAID HOURS ARE TO BE POSTED AND AT THOSE TIMES THERE WILL BE AN ACTING OR PERMANENT LIBRARIAN PRESENT TO SUPERVISE THE CONTROL OF THE BOOKS.

THERE BEING NO FURTHER BUSINESS THE MEETING WAS ADJOURNED.

RESPECTFULLY SUBMITTED

/s/LAURENCE W. CARR, SEC.
LAURENCE W. CARR, SEC."

MINTA H. REICHEL
P.O. BOX 2304
REDDING, CA 96001

JANUARY 23, 1978

OFFICE OF THE CLERK
SUPREME COURT OF THE
STATE OF CALIFORNIA
LIBRARY AND COURTS BLDG.
SACRAMENTO, CA 95814

DEAR SIR:

AS I AM ALLOWED THE USE OF THE SHASTA COUNTY LAW LIBRARY ONLY TWO HOURS PER DAY FIVE DAYS A WEEK I HAVE BEEN TOO SICK WITH A COLD VIRUS TO TRAVEL TO THE LAW LIBRARY AT THE UNIVERSITY OF CALIFORNIA AT DAVIS IN ORDER TO COMPLETE MY RESEARCH FOR THE PETITION FOR HEARING BEFORE THE SUPREME COURT, I RESPECTFULLY REQUEST AN EXTENSION OF SEVEN (7) DAYS TO COMPLETE MY PETITION.

RESPECTFULLY SUBMITTED,

/s/ MINTA H. REICHEL
APPEARING IN PRO PER

CC: LAUGHLIN CRAIG & CHRISTENSEN
P.O. BOX 676, CHICO, CA 95926
RICH FUIDGE MARSH & MORRIS
P.O. DRAWER A, MARYSVILLE, CA 95901

APP-K1, 123a

OFFICE OF THE CLERK
SUPREME COURT OF CALIFORNIA
SAN FRANCISCO, CALIFORNIA
G.E. BISHEL, CLERK

JANUARY 25, 1978

MINTA H. REICHEL

P.O. BOX 2304, REDDING, CALIF. 96001

RE: 3CIV 16263 - REICHEL V OCHINERO
CONSTRUCTION COMPANY

DEAR MINTA REICHEL:

THE COURT DOES NOT EXTEND THE TIME TO FILE A PETITION FOR HEARING. THE LAST DAY TO TIMELY FILE A PETITION FOR HEARING WAS JANUARY 23, 1978.

VERY TRULY YOURS,

G.E. BISHEL

CLERK OF THE SUPREME CT.

BY J.L. KAVANAGH

CHIEF DEPUTY

JLK: ct

CC: MESSRS. LAUGHLIN, CRAIG & CHRISTENSEN

MESSRS. RICH, FUIDGE, MARSH, & MORRIS

APP-K1, 124a

OFFICE OF THE CLERK
SUPREME COURT OF CALIFORNIA
SAN FRANCISCO, CALIFORNIA
G.E. BISHEL, CLERK

FEBRUARY 3, 1978

MS. MINTA H. REICHEL
P.O. BOX 2304, REDDING, CALIF. 96001

RE: 3 CIV. 16263- REICHEL V. OCHINERO CONSTRUCTION COMPANY

DEAR MS. REICHEL:

YOUR LETTER REQUESTING RELIEF FROM DEFAULT AND THE PETITION FOR HEARING WERE PRESENTED TO THE COURT FOR ITS CONSIDERATION.

THE COURT DIRECTED THAT YOUR PETITION FOR HEARING BE RETURNED FOR THE REASON THAT IT WOULD NOT GRANT THE PERMISSION NECESSARY TO ALLOW THE UNTIMELY FILING.

ENCLOSED FIND A COPY OF THE COURT'S POLICY STATEMENT IN THIS REGARD, TOGETHER WITH YOUR CHECK FOR $25.00.

VERY TRULY YOURS,

JLK:CT
ENCLOSURES
cc:IVERSON
CHRISTENSEN

G.E. BISHEL
CLERK OF THE SUPRME CT.

BY: J.L. KAVANAGH
CHIEF DEPUTY

MINTA H. REICHEL
P.O. BOX 2304
1945 SHASTA STREET
REDDING, CALIF., 96001

MAY 13, 1976

TO THE HONORABLE JUDGES OF THE SUPERIOR COURT, RICHARD C. BRENNAN, SHASTA COUNTY CLERK, SHASTA COUNTY COURT HOUSE, COURT STREET, REDDING CALIFORNIA, 96001

HONORABLE JUDGE EATON:

HONORABLE JUDGE ABBE:

HONORABLE JUDGE SMALL:

IN THE PASY YEARS THE LAW LIBRARY WAS OPEN TO THE PUBLIC FROM 8 AM TO 5PM AND THE PUBLIC WAS ALLOWD TO ENTER AND RESEARCH A SUBJECT OR CODE. HOWEVER,THIS IS NO LONGER THE CASE AND THE TWO HOURS ONLY FROM 3PM TO 5 PM IS HARDLY ADEQUATE TO RESEARCH A CODE AND BE SURE OF THE FORM TO USE AND CAUSES PROBLEMS IN FILING INCORRECTLY AS I DID WITH THE STANDARD WRIT OF ATTACHMENT AND OTHER CODES THEREIN, AS WELL AS THE FORM FOR A HEARING IN MY ATTEMPT TO CROSS-FILE. FURTHER, THE BOOKD NEEDED WAS NOT

AVAILABLE TO ME ON THE SHELF UNTIL MAY 11th. I UNDERSTAND THE PROBLEMS OF THIEVERY AND DAMAGE TO THE BOOKS, HOWEVER, THERE SHOULD BE A WAY TO ALLOW THOSE OF US WHO NEED THESE BOOKS TO USE THEM.

I THEREFORE RESPECTFULLY REQUEST PERMISSION TO HAVE ACCESS TO THE LIBRARY AT OTHER HOURS OF THE DAY, WHILE I ATTEMPT TO PRESENT MY CASE TO THE COURT.

*PROBATE #12612

SINCERELY,

/s/MINTA H. REICHEL
MINTA H. REICHEL,
PLAINTIFF,
CIVIL CASES #54512
#54513
APPEARING IN PROPRIA
PERSONNA

CC: HONORABLE JUDGE EATON
HONORABLE JUDGE ABBE
HONORABLE JUDGE SMALL

APP-M1, 127a

JUNE 11, 1976
MINTA H. REICHEL
P.O. BOX 2304
REDDING, CA. 96001
TELEPHONE (916) 241-6772

HONORABLE JUDGE ABBE:
JUDGE OF THE SUPERIOR COURT
RICHARD C. BRENNAN, SHASTA CO. CLERK,
COURT STREET
REDDING, CALIF., 96001

HONORABLE JUDGE ABBE:

THANK YOU VERY MUCH FOR ACCEPTING MY LETTER OF MAY 13, 1976 (COPY ATTACHED FOR CONVENIENCE OF OTHER JUDGES), AND PRESENTING IT TO THE BOARD OF DIRECTORS FOR THE LAW LIBRARY. THAT THEY REFUSED TO CONSIDER MY REQUEST FOR PERMISSION FOR FULL USE OF THE LAW LIBRARY IN THAT I HAVE A CASE BEFORE THE CUPERIOR COURT, WAS QUITE A SHOCK, FOR IT HAS CREATED GREAT HARDSHIP FOR ME TO RESEARCH AND PROPERLY PREPARE MY CASE FOR PRESENTATION.

IN FACT ON WEEKENDS, I HAVE TRAVELED AS FAR AS THE MILLS TOWER LIBRARY ON BUSH ST. IN SAN FRANCISCO, AS WELL AS OTHER LIBRAR-

IES OPEN ON SATURDAY AND SUNDAY IN ORDER TO TRY TO DO THINS RIGHT.

FURTHER, THERE IS LEGAL AID FOR THE DESTITUTE, CORPORATIONS HAVE THEIR ATTORNEYS ON RETAINOR,

BUT, FOR THOSE WHO HAVE A CASE THAT DOES NOT QUALIFY FOR BUSINESS DEDUCTION, NOR HAVE A GREAT CASH BACKGROUND, APPARENTLY, THERE IS NO JUSTICE!.

THAT THIS IS THE JUSTICE I ENLISTED FOR IN IN THE SERVICE IN WWII, AND IN FACT, RECEIVED A CAPTAIN'S COMMENDATION FOR SERVICE ABOVE AND BEYOND THE CALL OF DUTY, IS A SHOCK. THE APPARENT ATTORNEY'S MONOPOLY DOES NOT APPLY TO THEM, ONLY FOR THE CORPORATIONS WHO HIRE THEIR SERVICES.

I MUST ADD HERE, THAT JUDGE EATON REFUSED TO ACCEPT THE LETTER, RETURNED IT TO ME.

THAT JUDGE SMALL WAS NOT IN THE COURT HOUSE THAT DAY, SO DID NOT HAVE THE PRIVILEGE TO ACCEPT OR REJECT THE REQUEST.

IN THE MEANTIME, I SHALL CONTINUE TO TRY, NOT ONLY TO KEEP FROM LOSING MY CASE THR-ROUGH DEFAULT OF STATUTE OF LIMITATIONS, BUT ALSO, TO FIND AN ATTORNEY WHO HAS THE COURAGE TO GO AGAINST THE ESTABLISHMENT.

SINCERELY,

/s/MINTA H. REICHEL
APPEARING IN PROPRIA
PERSONNA

CC: JUDGE EATON
JUDGE SMALL

BENJAMIN A. HARRIS
SECRETARY

PAUL STATHEM
CHAIRMAN

CITY OF REDDING PLANNING COMMISSION
REGULAR MEETING, 2:00 PM
JANUARY 13, 1970
COUNCIL CHAMBERS, 1313 MARKET STREET
REDDING, CALIFORNIA

"USE PERMIT APPLICATION UP-109-69 BY E.H. OCHINERO, REQUESTING AN OFFICE WITH A REDUCED FRONT YARD SETBACK ON PROPERTY LOCATED AT 1330 WEST STREET IN AN "R-4" MULTIPLE FAMILY DISTRICT.-----THE PLANNING DIRECTOR REFERRED TO A DIAGRAM OF THE PROPOSED CONSTRUCTION AND INDICATED WHERE THE NEW BUILDING WAS PLANNED TO BE LOCATED WITH THE PARKING LOT TO BE ON THE BACK OF THE PROPERTY. HE NOTED THAT PARKING WAS PLANNED TO BE USED JOINTLY WITH AN OFFICE, WITH A JOINT-USE DIVEWAY. THE PLANNING DIRECTOR ILLUSTRATED AN OPEN DRAINAGE DITCH THROUGH THE PROPOSED PARKING AREA. HE SAID THE DITCH IS PROPOSED TO BE COVERED; AND WHETHER OR NOT THE JOINT DIRVEWAY ..

USED, COVERING DRAINAGE DITCH IS ESSENTIAL TO THE DEVELOPMENT.-----MRS. MINTA REICHEL 1945 SHASTA STREET, SAID SHE HAD DISCUSSED THE USE PERMIT WITH CARL ARNESS. SHE ILLUSTRATED THE LOCATION OF THE CREEK AND THE PROPERTY SHE OWNS. SHE NOTED FLOODED AREAS WHEN THE DRAINAGE OVERFLOWED AND AGREED THAT THE DITCH SHOULD BE COVERED. MRS. REICHEL DREW DIAGRAM ILLUSTRATING THE SUBJECT PROPERTY, THE CREEK, AND HER PROPERTY SHE DISCUSSED HISTORIC FLOODING CONDITIONS AND EXPRESSED HER CONCERN WITH WHAT WOULD HAPPEN TO FLOOD WATERS WHEN THE DITCH IS COVERED THROUGH THE SUBJECT PROPERTY. THE CITY ENGINEER COMMENTED ON DRAWING PREPARED BY BILL WOODWARD AND THE MASTER STORM DRAINAGE PLANS CALL FOR 60-INCH I.D PIPE. HE DISCUSSED A MULTIPLATE ARCH BASED ON 60-INCH INNER DIAMETER PIPE. THE CITY ENGINEER SAID THE DESIGN IS FOR A 25 YEAR FREQUENCY. THE CITY ATTORNEY SAID

IT WAS INTENDED THAT THE TOP OF THE ASPHALT BE AT AN ELEVATION WHICH WILL PERMIT FLOWS IN EXCESS OF THE CAPACITY OF THE PIPE TO GO OVER-LAND. MRS. REICHEL SAID SHE REALIZED THERE IS NO OBLIGATION FOR ANYONE TO IMPROVE HER PROPERTY BUT DOESN'T WANT ANYTHING BUILT THAT WILL FLOOD HER PROPERTY. THE CITY ATTORNEY SAID IT WOULD THEN BE MRS. REICHEL'S RESPONSIBILITY TO SHOW THAT THIS STRUCTURE CAUSED FLOODING. THE CITY IS NOT REQUIRED TO DESIGN A STORM DRAIN BEYOND THE CAPACITY OF A TEN-YEAR STORM, AND WE ARE NOT ALLOWED TO DIVERT STORM WATERS BEYOND THEIR NATURAL PATH. THE CHAIRMAN SAID IT IS UNDERSTOOD THAT THE CITY HAS AN OBLIGATION TO SEE THAT THIS IS DONE PROPERLY. THE CITY ATTORNEY SAID WE CAN'T GUARANTEE THAT MRS. REICHEL) WON'T BE SANDBAGGING AGAIN. THE CITY ENGINEER EXPLAINED STORMS THAT MIGHT OCCUR ONCE IN TEN YEARS AND SAID THERE

HAVE BEEN MANY STORMS ABOVE THIS FIGURE. --------THE PLANNING DIRECTOR SAID THE DRAINAGE DITCH AND THE ACCESS WERE THE MAIN PROBLEMS; AND IF THE COMMISSION CONCURS IN THE PROPOSED DEVELOPMENT, HE WOULD RECOMMEND APPROVAL SUBJECT TO (1) RECORDING OF ACCESS AGREEMENT ACROSS ZAGARIS PROPERTY.-----AND (4) COVERING THE DRAINAGE DITCH AS APPROVED BY THE DEPARTMENT OF PUBLIC WORKS. THE CITY ENGINEER SAID AN EASMENT FOR THE EXISTING SEWER THROUGH THE PARKING LOT IS NEEDED AND IT SEEMS THAT WHEN THIS DEVELOPMENT GOES IN THE SEWER WILL BE RELOCATED. THE CITY ATTORNEY SAID THE DRAINAGE DITCH WOULD INTERFERE WITH THE SEWER. THE CHAIRMAN SAID IF THIS OCCURS IT IS PROVIDED FOR IN THE CONDITIONS RE COVERING THE DRAINAGE DITCH TO THE SATISFACTION OF PUBLIC WORKS. THE CITY ATT ORNEY SAID IT OUGHT TO BE SPECIFIED AS A MATTER OF PUBLIC RECORD. MR. ZAGARIS OB-

JECTED TO HAVING TO CHANGE THE SEWER AND PUT IN THE CULVERT. THE CITY ATTORNEY SAID MR. ZAGARIS HAS A PRESCRIPTIVE EASEMENT FOR A SEWER LINE THROUGH HIS PROPERTY. THE CITY ATTORNEY SAID WE HAVE AN ORDINANCE THAT PROVIDES A NATURAL DRAINAGE COURSE, WHEN YOU REDUCE THE CAPACITY OF A NATURAL DRAINAGE COURSE, YOU OBSTRUCT IT. -----COMMISSIONER GREENLEAF MOVED APPROVAL OF UP-109-69, SUBJECT TO THE FOUR CONDITIONS OUTLINED BY THE PLANNING DIRECTOR. COMMISSIONER WILLIAMSON SECONDED THE MOTION. THE CITY ATTORNEY ASKED IF COMMISSIONER GREENLEAF WERE POSSIBLY LEAVING OUT THE SEWER QUESTION. COMMISSIONER GREENLEAF SAID HE THOUGHT THAT WAS COVERED IN THE CONDITION RE THE DRAINAGE DITCH. THE CITY ATTORNEY SAID HE WOULD LIKE THE RECORD TO SHOW THAT THERE IS A SEWER LINE AND THAT IF THEY LOWER THE DRAINAGE CHANNEL, THEY VERY LIKELY WILL HAVE TO TAKE

CARE OF RELOCATION OF THE SEWER LINE. COMMISSIONER GREENLEAF FELT THAT THE MINUTE RECORD WOULD SHOW HIS OPINION. THE CHAIRMAN CALLED FOR A VOTE ON THE MOTION WHICH CARRIED UNANIMOUSLY."

MOTION TO QUASH SERVICE

TUESDAY, JULY 6, 1976

(PROCEEDINGS BEFORE HONORABLE CLYDE SMALL JUDGE OF THE SUPERIOR COURT PRESIDING. THE PLAINTIFF APPEARED IN PROPRIA PERSONNA. THE DEFENDANT WAS REPRESENTED BY FRANKLIN S. CIBULA, ATTORNEY AT LAW.)

PROCEEDINGS

THE COURT: NUMBER 54512, REICHEL VS CIBULA, ET AL

MR. CIBULA: YES, YOUR HONOR. THAT WAS OUR MOTION, AND THE MOTION DID EXACTLY WHAT I HOPED IT WOULD DO, AND THAT IS IT PROMPTED WHAT I BELIEVE NOW IS EFFECTIVE SERVICE. THE REASON FOR THE MOTION IS THAT I RECEIVED A LOT OF MATERIAL IN THE MAIL AND I DIDN'T WANT TO BE FORCED TO DECIDE WHAT I MIGHT ANSWER OR WHAT THE CLERK MIGHT BE RECEIVING A DEFAULT ON. SO AT THIS POINT I THINK THE MOTION COULD BE GRANTED BUT IT IS MOOT. BUT I WOULD

BUT I WOULD ASK TO, SAY, JULY 20th, TO ANSWER.

THE COURT: WELL, IT IS ENTIRELY MOOT IF THERE HAS BEEN A NEW SERVICE.

MR. CIBULA: YES, BUT I DON'T WANT ANY POSSIBLE DEFAULT DURING THE PERIOD OF THAT SERVICE. I BELIEVE IT WAS ON THE 18TH. I AM NOT POSITIVE.

THE COURT: WELL, I THINK YOU CAN DEPEND ON THE CLERK'S OFFICE NOT TO ENTER A DEFAULT UNLESS THERE IS PROOF OF VALID SERVICE.

MR. CIBULA: THAT'S ALL I WANTED ON THIS MOTION.

THE COURT: THERE IS A VALID SERVICE NOW?

MR. CIBULA: THERE WAS A VALID SERVICE ON JUNE 18TH.

THE COURT ALL RIGHT. WELL, I GATHER FROM THE RECORD THAT THERE WAS NO PERSONAL SERVICE BY CONSTABLE, SHERIFF OR MARSHALL AND THAT MANY PAPERS WERE SIMPLY SERVED BY MAIL?

MR. CIBULA: YES, IN A VERY ODD SEQUENCE OF ENVELOPES.

THE COURT: WAS IT YOUR INTENTION TO MAKE SERVICE IN THIS MANNER, MRS. REICHEL, OR WERE YOU SIMPLY SENDING THIS FOR INFORMATIONAL PURPOSES?

MRS. REICHEL. NO. FRANKLY I DID'T KNOW I HAD TO SERVE A SUMMONS. THIS WAS DUE TO A LACK OF THE PRIVILEGE OF THE LIBRARY. I HAVE ONLY TWO HOURS A DAY. IT IS VERY BAD.

THE COURT: LET ME TELL YOU SOMETHING. IF YOU KNOW WHAT YOU ARE DOING IT TAKES TEN MINUTES TO RESEARCH HOW TO SERVE A PAPER, NOT TWO HOURS, NOT ONE DAY. AND LET (ME) POINT OUT SOMETHING ELSE. PEOPLE WHO ARE PRACTICING BEFORE THIS COURT, AS LAWYERS OR AS PRO PERS, IT IS NOT CONTEMPLATED THAT THEY WILL USE THE LIBRARY AS A PROFESSIONAL LIBRARY. THAT IS A SUPPLEMENT TO THE LAWYERS'S LIBRARY OF LITIGANTS AND

AND COUNSEL BEFORE THE COURT.

SO IF YOU ARE TAKING THE POSITION THAT SOMEHOW THIS IS ALL THE BOARD OF TRUSTEES' FAULT YOU ARE RUNNING DOWN A BLIND ALLEY. YOU CAN GET A COPY OF THE CODE OF CIVIL PROCEDURE VERY ECONOMICALLY FOR LESS THAN A HALF HOUR OF A LAWYER'S TIME, AND IT IS ALL IN THE CODE OF CIVIL PROCEDURE.

MRS. REICHEL: MAY IT PLEASE THE COURT, IN RESPONSE TO MR. CIBULA, IN RELATION TO HIS APPEARANCE ON MAY 24th AT THE PROBATE COURT, HE AT THAT TIME ACKNOWLEDGED SERVICE, AND SIMPLY BY APPEARANCE, AND IN ACCORDANCE WITH---

MR. CIBULA: (INTERPOSING) MRS. REICHEL, THAT WAS A PROBATE PROCEEDING AND NOTHING TO DO WITH THIS.

THE COURT: THAT WASN'T IN THIS ACTION, WAS IT?

MR. CIBULA: NO. IT WAS IN THE PROBATE COURT.

THE COURT: UPON MRS. REICHEL'S ACKNOWLEDGEMENT THAT SHE WAS NOT PURPORTING TO MAKE SERVICE, NO FURTHER ORDER IS NECESSARY. AND SERVICE HAS BEEN MADE NOW SO THERE IS NOTHING BEFORE THE COURT AT THIS TIME.

MR. CIBULA: THANK YOU, YOUR HONOR.

REPORTER'S TRANSCRIPT ON APPEAL

----- #54512

COUNSEL:

FOR THE PLAINTIFF AND CROSS-DEFENDANT

MINTA H. REICHEL, IN PROPRIA PERSONA

FOR THE DEFENDANTS AND CROSS-COMPLAINENTS

CIBULA & CIBULA, ATTORNEYS AT LAW

BY: FRANKLIN S. CIBULA,
ATTORNEY AT LAW

---o0o---

ALBERT C. PETERSON
OFFICIAL COURT REPORTER
COURTHOUSE
REDDING, CALIFORNIA

C.S.R. NO 627

PP 9 - 10: (Ex. Rec. pp 406-407)

"DEMURRER TO AMENDED COMPLAINT AND MOTION

FOR CHANGE OF VENUE

MONDAY, NOVEMBER 1, 1976

(PROCEEDINGS BEFORE HONORABLE CLYDE SMALL

JUDGE OF THE SUPERIOR COURT PRESIDING.

THE PLAINTIFF MINTA REICHEL APPEARED IN

PROPRIA PERSONA. FRANKLIN S. CIBULA,

PROCEEDINGS

THE COURT: NUMBER 54512, REICHEL VS CIBULA.

MR. CIBULA: MRS. REICHEL WANTS A CONTINUANCE, AND I DO TOO.

THE COURT: WELL, CERTAINLY I AM WILLING TO GIVE HER A CONTINUANCE, BUT I AM BOTHERED BY THE STATE OF THE RECORD.

I HAVE A MOTION HERE WHICH DOESN'T REALLY FIT ANY OF THE RUELS OF COURT. IT IS KIND OF IN BETWEEN.

THE MOTION CITES 170.6, BUT, OF COURSE, IT IS INVALID AS A 170.6 MOTION BECAUSE YOU CAN'T CHALLENGE THE WHOLE JUDICIARY OF CALIFORNIA UNDER 170.6.

WAS THAT YOU INTENTION, OR WHAT DID YOU WANT TO DO?

MRS. REICHEL: YOUR HONOR, I AM HAVING TROUBLE SPEAKING THIS MORNING. BUT IN THE MATTER OF THE CIVIL CODE OF PROCEDURE IT STATED THAT WITHIN THAT CODE YOU WOULD

ALSO HAVE TO CITE 170.6 BECAUSE THERE IS NOT---IT STATED RIGHT IN THE REFERENCE TO WITKI_, WHICH ATTACHED ON THE MEMORANDUM OF POINTS AND AUTHORITIES.C.C.P.397.4 STATES, LAST GROUND FOR CHANGE "NO GROUNDS FOR DISQUALIFICATION ARE STATED IN THE VENUE STATUTES, AND REFERENCE MUST BE MADE TO C.C.P. 170.6." IN ORDER TO HAVE A CHANGE OF JUDGES.

THE COURT: WELL, AS LONG AS YOU UNDERSTAND THAT YOU CAN ONLY CHALLENGE ONE JUDGE IN ONE ACTION UNDER 170.6. AND YOU ARE PURPORTING TO CHALLENGE ABOUT FIVE OF THEM.

SO YOUR CHALLENGE UNDER 170.6 WON'T BE ALLOWED IN THE PRESENT FORM. IF YOU WISH TO CHALLENGE UNDER 170, SUBDIVISION 5, YOU CAN DO THAT. THAT OF COURSE, RAISES DIFFERENT RECORD REQUIREMENTS. THE REASON I AM TELLING YOU THIS IS BECAUSE YOU HAVEN'T GOT A LAWYER. AND I DON'T WANT YOU TO

COME BACK MEXT TIME AND BE CAUGHT ON A BLIND SPOT.

SO I WILL GRANT THE ORDER FOR A CONTINUANCE TO NOVEMBER 15, 1976, WITH THE UNDERSTANDING THAT YOU MAY WANT TO TAKE A LOOK AT YOUR SUPPORTING PAPERS IN THE MEANTIME.

MRS. REICHEL: YOUR HONOR, IN THAT I AM DENIED THE USE OF THE LAW LIBRARY EXCEPT FROM 3;00 TO 5:00 EVERY AFTERNOON,IT MEANS THAT WHEN I WISH TO WRITE A PAPER I MUST WAIT UNTIL 3:00 TO 5:00 IN THE AFTERNOON TO EVEN CHECK THE RECORDS.

THE COURT: WELL, YOU WILL HAVE ---

MRS. REICHEL: (INTERPOSING) TO EVEN CHECK THE RECORDS AND PREPARE FOR ---

THE COURT: (INTERPOSING) JUST A MINUTE MRS. REICHEL. I DON'T WANT TO HEAR A DIATRIBE ON THE LIBRARY. YOU WILL HAVE A NUMBER OF DAYS, EACH ONE OF WHICH YOU WILL HAVE MORE TIME THAN YOU NEED TO CHECK THAT ONE CODE SECTION. SO IT (IS) UP TO YOU

WHETHER YOU WANT TO CHECK IT AND BE READY NEXT TIME OR WHETHER YOU DON'T.

THE MATTER IS CONTINUED TO NOVEMBER 15TH AS REQUESTED.

---o0o---

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SHASTA

MINUTE BOOK I2
PAGE 425
DATE. NOV. 15, 1976

HON. CLYDE SMALL,
ROGER NELSON DEP.SHERIFF
ARLENE LEWIS, DEP.CLERK
AL PETERSON, REPORTER

#54512

MINTA H. REICHEL,
PLAINTIFF,

VS

FRANKLIN S. CIBULA, ET AL,
DEFENDANTS.

NATURE OF PROCEEDINGS - DEMURRER TO AMENDED COMPLAINT & MOTION FOR CHANGE OF VENUE

PLAINTIFF MINTA H. REICHEL APPEARS IN PROPRIA PERSONA. FRANKLIN CIBULA, ATTORNEY APPEARS FOR THE DEFENDANT.

MRS. REICHEL, IN RESPONSE TO A REQUEST FROM THE COURT, SPECIFIES THAT HER INTENTION IS TO EXERCISE HER CHALLENGE UNDER SECTION 170.6 OF THE CODE OF CIVIL PROCE-

DURE AGAINST JUDGE WETTER.

JUDGE SMALL STATES THAT, THOUGH HE DOES NOT CONSIDER HIMSELF DISQUALIFIED, HE WILL DECLINE TO HEAR ANY FURTHER MATTERS IN THIS CASE BECAUSE THE DEFENDANT IS AN ATTORNEY PRACTICING REGULARLY IN HIS DEPARTMENT, AND REFERS THE MATTER TO DEPARTMENT II FOR FURTHER PROCEEDINGS.

CC: MINTA REICHEL,BOX 2304, REDDING, CA

FRANKLIN CIBULA

/s/ CLYDE SMALL
CLYDE SMALL, JUDGE

PROOF OF SERVICE BY FEDERAL EXPRESS

I, THE UNDERSIGNED, DECLARE UNDER PENALTY OF PERJURY THAT I AM A CITIZEN OF THE UNITED STATES AND A RESIDENT OF THE COUNTY OF SHASTA OF CALIFORNIA.

I AM OVER 18 YEARS OF AGE AND A PARTY TO THE WITHIN ACTION AS A NON-LAWYER LITIGANT IN PROPRIA PERSONNA WITHIN THE ENTITLED ACTION. ON SEPTEMBER 22, 1982 I SERVED THE WITHIN: PETITION FOR CERTIORARI

1. JOHN KENNY, SHASTA COUNTY COUNSEL, SHASTA COUNTY COURTHOUSE, COURT ST, REDDING, CALIFORNIA 96001,

2. JAMES T. FREEMAN OF DIEPENBROCK, WULFF, PLANT & HANNEGAN, 455 CAPITOL MALL, SUITE 800, SACRAMENTO, CA 95814,

3. KATHLEEN E. JOLLY, FRANKLIN CIBULA, P.O. BOX AM, REDDING, CA 96099,

4. DAVID SCHMIDT, PRESLEIGH, AREL AND D DUNLAP, 1745 YUBA STREET, P.O. DRAWER AT, REDDING, CA. 96099

5. W. LEONARD WINGATE, WELLS, WINGATE & SMALL, P.O. BOX 1846, REDDING, CA 96099

6. SOLICITOR GENERAL, DEPARTMENT OF JUSTICE WASHINGTON, D.C. 20530

7. CALIFORNIA STATE ATTORNEY GENERAL, 555 CAPITOL MALL, SACRAMENTO, CA. 95814

Dated: September 22, 198

Sheila L. Kuehl

[redacted]

No. 82-513

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

MINTA H. REICHEL,

Petitioner,

vs.

CALIFORNIA SHASTA COUNTY
SUPERIOR COURT JUDGES, ET AL.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

RESPONDENTS' BRIEF IN OPPOSITION

JOHN SULLIVAN KENNY
County Counsel
County of Shasta
1558 West Street
Redding, CA 96001
(916) 246-5711
Counsel for Respondents

TABLE OF CONTENTS

Statement of the Case 2

Reasons Why the Writ Should Be Denied 6

1. The Issues Are Not Important Enough To Warrant Review . 6

2. The Court Below Fully Considered And Correctly Decided The Issues 8

3. The Decision Below Does Not Conflict With Any Other Decision 12

Conclusion 16

CITATIONS

Cases:

Bounds v. Smith, 430 U.S. 817 (1977) 9,10

O'Connor v. Mowbray, 504 F.Supp. 129 (D.Nev. 1980) . . 13,14,15,16

Wright v. Lane County Commissioners, 459 F.2d 1021 (1972) .8,12,13,15,16

California Statutes:

Business & Professions §6060, et seq 9
Business & Professions §6360 . . 15
Code of Civil Procedure 7

No. 82-513

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

MINTA H. REICHEL,

Petitioner,

vs.

CALIFORNIA SHASTA COUNTY
SUPERIOR COURT JUDGES, ET AL.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

RESPONDENTS' BRIEF IN OPPOSITION

Respondents, CLYDE SMALL, RICHARD W. ABBE, RICHARD B. EATON, WILLIAM H. PHELPS, HENRY KEEFER, BESSIE L.

SANDERS, PATRICK LA POINTE, JOHN R. CATON, R. D. "DAN" GOVER, SUSAN L. EVANS, STEPHEN C. SWENDIMAN, ROBERT A. REHBERG, LAURENCE W. CARR, ALBERT F. CUNNINGHAM and TODD C. FINEBERG respectfully request that this court deny the petition for writ of certiorari seeking review of the Ninth Circuit's unpublished opinion in this case.

STATEMENT OF THE CASE

(a) The litigation.

In 1970, appellant, who was represented by counsel, brought an action against the City of Redding and certain non-public defendants for inverse condemnation. Appellant lost.

In 1976 and 1977, appellant filed three state court lawsuits in propria persona. One of the cases was for malpractice against her former

attorneys in the inverse condemnation action; the case was never set for trial and the mandatory period for prosecuting the action ran in February, 1982. The other two cases were nearly identical to the original inverse condemnation suit; they were dismissed on the bases of collateral estoppel and res judicata and the dismissals were affirmed by the state appellate court.

In 1979, appellant instituted her action for damages in federal district court, alleging that respondents [1] violated her civil rights by conspir-

---

1/ Respondents are present and former Shasta County Superior Court judges, present and former members of the Shasta county Board of Supervisors, members of the Board of Directors of the Law Library Committee, the former Redding City Attorney, an attorney who represented appellant in the inverse condemnation action and the private attorneys who represented the defendants in that action.

ing to limit her access to the county law library during part of the time she was litigating her three pro per lawsuits. Appellant sought damages equal to the amounts she claimed she "may have" recovered in those suits.

In March 1980, the district court granted respondents' motion to dismiss appellant's second amended complaint for failure to state a claim upon which relief could be granted.

In March 1982, the Court of Appeals for the Ninth Circuit affirmed the district court's judgment.

(b) The limited hours policy.

Until October of 1974, the Shasta County law library was open to the general public during County business hours. Because of the theft of and damage to library materials, the general public's use of the library was reduced to two hours per business

day, or approximately 42 hours per month, although officers of the court were allowed to borrow a key to get into the library when it was closed. The 42-hour limitation remained in effect for three years, until January of 1978, when a half-time secretary-librarian position was first funded and the library policy was changed to increase the general public's access to four hours per day (the time when the secretary-librarian was in the library) or about 84 hours per month. During this time, appellant could use the law libraries in Weaverville, Oroville, Davis and Sacramento. A Redding law firm offered her the use of its library some time after the restrictions went into effect.

In February, 1980, when the librarian position was changed from half-time to full-time, the

restrictions were lifted. Appellant had two years of unrestricted access to the library for two years of the pendency of her malpractice case.

REASONS WHY THE WRIT SHOULD BE DENIED

1. The Issues Are Not Important Enough To Warrant Review.

(a) The restrictions on the general public's use of the library were removed in February of 1980.

(b) No other person will be affected by the outcome of this action. There are no other pending suits or claims arising from the former restrictions.

(c) Appellant cannot possibly prevail in her action for damages for the alleged violation of her civil rights.

Appellant seeks only one remedy: damages equal to the sums she claims she "may have" recovered in the three unsuccessful state actions if she had

had unrestricted access to the law library. She does not seek general damages and does not plead facts which would allow her to recover them.

Appellant cannot show a causal nexus between limited library access and her failure to prevail in the underlying actions. In the malpractice action, appellant had a period of two years, from February of 1980 to February of 1982, during which there were no restrictions on her library access.[2/] Therefore, her failure to prevail in the malpractice action could not have been proximately caused by limited library access. The other

---

2/ California Code of Civil Procedure §583 allows a litigant five years to bring a civil action to trial. That period is extended during the time the case is on appeal. Appellant filed her action in May of 1976. Her appeal extended the period of time nine months, to February 1982.

two actions, as noted by the Ninth Circuit, were "clearly barred by res judicata and collateral estoppel." (See Attachment APP-A, 8a to appellant's petition.)

2. The Court Below Fully Considered And Correctly Decided The Issues.

The Court of Appeals correctly found that the former limitations on the general public's access to the library were rationally related to a valid objective, insuring the security of the library and its materials.

In Wright v. Lane County Commissioners 459 F.2d 1021 (1972), the Ninth Circuit recognized that a county's interest in security may be achieved in limiting access to the law library "to a recognized and trusted segment of the community," such as officers of the court. (459 F.2d at 1023.) The California State Bar

reviews the general fitness and the criminal background of prospective attorneys and to some extent regulates the behavior of members of the Bar, (Business and Professions Code §6060 et seq.) but there is no way for a county to assess and limit the security risk posed by individual members of the general public being allowed access to an unstaffed library. Further, members of the general public do not have the long-term need for law library materials which prompts attorneys to safeguard the library.

Due process is not violated by the placing of reasonable limitations on access to legal information, even in situations where the right to be protected is more dear than merely the right to pursue civil actions for damages. In Bounds v. Smith, 430 U.S.

817 (1977), this Court held that prison officials may safeguard a prisoner's right to access to the courts by providing him either legal counsel or reasonable access to legal materials. The "reasonable access" approved by this court consisted of a system by which an inmate desiring to use the library would make an appointment to do so and then would wait up to four weeks for his turn for a full day's library use. (430 U.S. at 819.) Surely a litigant in a civil action for malpractice or property damage is entitled to no greater access to legal materials than that given to incarcerated persons who are deprived of their freedom and are "seeking new trials, release from confinement or vindication of fundamental civil rights." (430 U.S. at 827.)

A prisoner, for whom eight hours in the library per month is "reasonable access" to the courts, generally has only the prison law library as a resource. Here, appellant had access to the county law library for 42-84 hours per month. Appellant is not an indigent; she could have purchased paperback volumes of the applicable state codes. She could have photocopied materials to use at home. Libraries in Weaverville, Oroville, Davis and Sacramento were available. During part of the time the "limited hours restriction" was in effect, she was offered use of the library of a local law firm.

The restrictions on the general public's use of the law library may have inconvenienced appellant, but they were not so onerous as to

prohibit her from adequately preparing her cases.

Moreover, appellant had two years of unrestricted library access to pursue her malpractice claim, the only one of her three state actions which was not clearly barred by collateral estoppel or res judicata. Her failure to bring the case to trial cannot be attributed to respondents.

3. The Decision Below Does Not Conflict With Any Other Decision.

Two other cases have discussed whether allowing greater library access to officers of the court than to the general public or pro per litigants is constitutionally permissible.

The controlling authority is Wright v. Lane County Commissioners, 459 F.2d 1021 (1972), in which the Ninth Circuit affirmed the dismissal

of a pro per litigant's complaint against a county board of commissioners and a local bar association for conspiracy to deprive him of access to the library equal to that allowed judges and officers of the court. The Court of Appeals held that the attorney-litigant classification and the hours selected both possessed a reasonable relationship to the achievement of the goal of security. (459 F.2d at 1023.)

A district court case, O'Connor v. Mowbray, 504 F.Supp. 139 (D.Nev. 1980), in which the court held that the Nevada Supreme Court must re-open its law library to pro se litigants after business hours, is distinguishable from both Wright and this action.

In O'Connor, attorneys and pro per litigants had access to the Nevada Supreme Court library after business

hours until 1980. Although there was no indication that anything had been taken from or damaged within the library or elsewhere in the building (504 F.Supp. at 141), members of the court determined that pro se litigants would no longer be allowed into the building after hours.

The district court pointed to a state statute (which was not applicable to county law libraries) which required the Nevada Supreme Court library to be "accessible to users in all parts of the state." The court opined that "the Legislature anticipated that hours beyond 8 A.M. to 5 P.M might be required for the library to serve its purpose" of providing service to Nevada residents who lived great distances from the Supreme Court. (504 F.Supp. at 142.) Unlike Nevada, California has no statutory

requirement that the Shasta County Law Library be accessible to persons living in all parts of the state.

The O'Connor court distinguished Wright, supra, finding significant the fact that the Oregon statute, but not the Nevada statute, specifically mentioned the use of the library by attorneys. California's statutory scheme is similar to Oregon's and also permits county law libraries to be used by "members of the State Bar." (Business and Professions Code §6360.)

Finally, in O'Connor the remedy was an injunction. Here no injunction is necessary as access has been unrestricted for over 2½ years.

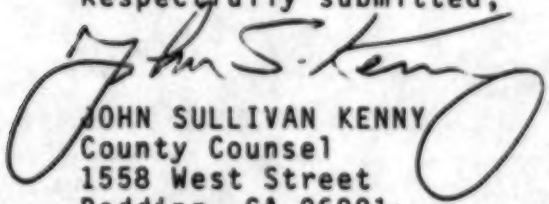
In light of the distinctive nature of the Nevada statutory scheme and because there was no security problem in the Nevada Supreme Court library, the Ninth Circuit's

determination below that this case more closely resembles Wright than O'Connor was correct. Appellant, like Wright, has failed to state a claim upon which relief can be granted.

CONCLUSION

For these reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted,



JOHN SULLIVAN KENNY
County Counsel
1558 West Street
Redding, CA 96001
Counsel for Respondents

PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA; COUNTY OF SHASTA

I am a citizen of the United States and employed in Shasta County; I am over the age of eighteen years and not a party to the within action; my business address is 1558 West Street, Redding, California 96001; on this date I served RESPONDENTS' BRIEF IN OPPOSITION by placing a true copies thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box at Redding, California addressed as set forth below.

Minta H. Reichel, P. O. Box 2304,
Redding, California 96099

Franklin S. Cibula, P. O. Box A.M.
Redding, California 96099

Wells, Wingate & Small, P.O. Box 1846, Redding, California 96099

Presleigh, Arel & Dunlap, P.O. Box AJ, Redding, California 96099

Diepenbrock, Wulff, Plant & Hannegan, 450 Capitol Mall, Suite 800, Sacramento, CA 95814

and by personally deliving a copy of said RESPONDENTS' BRIEF IN OPPOSITION on October 19, 1982, to

Clerk of the Superior Court, County of Shasta, Courthouse, Redding, CA 96001

I declare under penalty of perjury that the foregoing is true and correct.

Executed October 19, 1982, at Redding, California.